The Solicitors' Journal and Weekly Reporter.

(ESTABLISHED 1857.)

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VOL. LXX. Saturday, November 28, 1925. No. 8

Current Topics.

The Late Queen Alexandra.

THIS WEEK the nation mourns the loss of a good and noble Queen, whose unfailing kindness and charity has been a byword for many years. From the day of her first arrival on these shores she conquered, with her goodness and beauty, the hearts of one and all; and throughout her life and in spite of the many difficulties her exalted position entailed, her hold upon the respect and affection of the English people has never lessened. That her difficulties were many will be at once admitted; in private life she had her full share of grief, including the premature death of her eldest son, the DUKE OF CLARENCE; in public life she maintained with infinite tact and forbearance the difficult position of PRINCESS OF WALES; and when called to succeed one of the greatest and most beloved of Queens, and one moreover whose death marked the close of an epoch, she nobly and ably responded to the call made upon her and, side by side with KING EDWARD, helped to guide the Kingdom through the first transitional stages of the new era. Nor was her influence confined to England alone; it is doubtful if we shall ever know quite how much the country of her birth owes to the advice she gave to her father and brother on more than one occasion. When, after a reign that was all too short, death made her a widow and deprived England of a wise and statesmanlike ruler, she passed into retirement and, relieved of those public duties which weigh so heavily upon a reigning monarch, devoted the remainder of her life to the cause of charity—the cause she loved best of all and for which she was admirably fitted. Her charities both public and private are too numerous to mention here; in fact many of them will remain for ever unknown except to the grateful recipients thereof, but Alexandra Rose Day stands out, and will, we trust, stand out pre-eminently for many generations, to perpetuate the memory of one who, after a life of self-sacrifice and devotion, fell quietly and peacefully asleep leaving us to mourn the loss not only of a great Queen, but of a good and gracious lady.

In *Curia Parliamenti.*

REPRESENTATIVES of all parties in both Houses of Parliament on Monday paid their tribute of respect to the memory of the late Queen ALEXANDRA, and offered to the KING their loyal and sincere condolences in his sorrow. There are memorable occasions in the history of the British Parliament, and this is one of them, when the nation may justly pride itself upon the capacity which its elected representatives possess of rising above all party strife and uniting in a common and dignified expression of admiration and sympathy.

Most of the time of the House of Commons for the present week has been taken up with the report stage of the Rating and Valuation Bill, some of the clauses of which have met with considerable opposition from all sides of the House. Mr. NEVILLE CHAMBERLAIN, who is in charge of this complicated Bill, has promised to give sympathetic consideration (probably in a new Bill to be introduced next year for the purpose of amending the Public Health Acts) to the exemption of underground sewers from liability to be rated. It does appear to be an injustice as well as an incentive not to improve sanitation, that sewers and constructions of that kind should be assessable just like works designed for the production of wealth. In the debate on clause 1 of the Bill fears were expressed—without much apparent reason—that its provisions might in their practical operation allow of differentiation according to the character and creed of the body called upon to assess and collect the rates. The proposed amendment that clause 11, dealing with the rating and collection of rates by owners, be omitted from the Bill was negatived; and a series of amendments, proposed by Mr. CHAMBERLAIN himself as the result of representations made from outside the House of Commons, were adopted. One such amendment was designed to meet the temptation which under the present law lies in the way of those about to go out of office to put off until after an Election the levying of a rate which might prove unpopular. Amendments having the effect of limiting the *personnel* of the new rating assessment committees to members of local elected authorities were negatived.

Loans by Slate Clubs.

TWO POINTS of interest were raised in *Wilkinson and Others* v. *Levison*, *Times*, 14th inst., with regard to the right and method of recovery of loans, made to its members, by slate clubs and similar associations, *i.e.*, associations consisting of several persons who are allowed by the rules thereof to borrow money at a fixed rate of interest, according to the amount of the subscription paid by the member in question, the profits thereby earned being divisible each year among all the members *pro rata* according to the amount of their subscriptions. In *Wilkinson and Others* v. *Levison* the association in question was unincorporated, and the trustees and the treasurer thereof brought an action against one of the members of the association to recover £53, being the balance of loans made out of the funds of the association to the defendant. The point was taken on behalf of the defendant, that the association was unincorporated, that there was no provision in the rules allowing the trustees and the treasurer to sue, and that therefore the plaintiffs were not the proper parties to sue. Where, of course, an association is unincorporated, in the absence of any provision requiring all the property of the association to be vested in trustees, the property of the association will belong jointly to all the members of the association, and so far has this doctrine been carried that it has been held that where a member who purchases liquor belonging to the club (the club being a members' club), there is at law no sale of the liquor, because the liquor already belongs in part to the consuming member, and a man cannot purchase his own property: *Graff* v. *Evans*, 1882, 8 K.B.D. 373. In *Wilkinson* v. *Levison*, however, WRIGHT, J., overruled this objection by intimating that he would give leave to amend the writ if necessary, so that the present plaintiffs might be described therein as suing on behalf of themselves and all the other members of the society. The second objection taken by the defendant proved fatal to the plaintiffs' claim. The association had for one of its objects the acquisition of gain (the profits derived from the loans being divisible among the members) and inasmuch as the number of the members exceeded twenty, s. 2 of the Companies Act of 1908 required it to be registered as a company under the Act, unless it had been formed in pursuance of some other Act of Parliament. The association was therefore an illegal one and was not entitled to recover the amount of the loan. It might be pointed out that such an association as that in *Wilkinson* v. *Levison* might possibly have been formed under the Loan Societies Act, 1840. Such loan societies are exempted from the provisions of the Moneylenders Act, 1900, but they must be registered with the Registrar of Friendly Societies. They are not empowered, however, to make loans of a greater amount than £15, and no further loan is to be made until the preceding loan has been repaid.

Vagrancy.

A MAGISTRATE has decided that a woman with sevenpence halfpenny on her is not "a person wandering abroad and lodging . . . in the open air . . . not having any visible means of subsistence" within s. 4 of the Vagrancy Act, 1824, such person being deemed a rogue and vagabond under the Act. The ground of the decision was, of course, that the money afforded her some means of subsistence, though it would certainly be a puzzle to obtain lodgings and adequate food on such a sum. The wording of the statute leaves the magistrates considerable latitude, and, as perhaps might be expected, there has apparently been no High Court decision as authority for guidance or restriction. "Visible means" is a phrase used in s. 66 of the County Courts Act, 1888, and was construed, under the previous County Court Act of 1867 in *Lea* v. *Parker*, 1884, 13 Q.B.D. 835, but the application of the phrase in the two Acts differs so widely that authorities on the one would not be relevant in construing the other. The 101 years which have elapsed since the Vagrancy Act was passed render a re-casting very desirable. Much of the Act is indispensable; for example the provision that an able-bodied man who wilfully refuses or neglects to work and so becomes chargeable to the poor law commits an offence, is an integral part of the social contract. But it should be split into its component parts and the archaic terms of abuse "idle and disorderly person," "rogue and vagabond" and "incorrigible rogue" should be abolished as out of date. Part of the Act, such as the maintenance of the individual or his family, if any, should come under the poor law; most of s. 4, as to indecent exposure, being in enclosed premises for an unlawful purpose, etc., should be dealt with in Police Acts. Whether the latter ought to contain the veto on palmistry or not is open to question, but that veto now hits those who, however misguided they may be, are certainly not "rogues and vagabonds" in the ordinary sense. And the prohibition in s. 3 against prostitutes behaving in a riotous or indecent manner has been found inadequate to deal with the evil against which it is aimed: see *R.* v. *Duke*, 1909, 73 J. P. 88.

Purchaser of Vessel: Effect of Previous Charter.

WITH REFERENCE to the article on "Mortgage of Ship with Notice of Charter" appearing in THE SOLICITORS' JOURNAL (*ante*, pp. 72, 92), we should like to draw attention to the important ruling of the House of Lords in *The Lord Strathcona Steamship Co., Ltd.* v. *The Dominion Coal Co. Ltd.* (*Times*, 18th inst). There, the vessel, the *Lord Strathcona*, had been chartered in July, 1914, by the then owners, the Lord Curzon Steamship Co., Ltd., to The Dominion Coal Co., Ltd., for ten consecutive St. Lawrence seasons, with an option to continue the charter for a further period of five more seasons, and a still further option of three more seasons. There had been several changes in the ownership of the vessel, and the ownership thereof was now vested in the appellants, The Lord Strathcona Steamship Co., Ltd. With each change of ownership, the purchasers had been duly notified by the sellers of the existence of the charter-party and the terms thereof. The present owners of the vessel now sought to maintain that they were not bound by the charter-party, inasmuch as there was no privity of contract between them and the charterers (the respondents in the appeal). The House of Lords, however, in deciding that they were, notwithstanding, bound by the charter, set its seal of approval on the decision in *De Mattos* v. *Gibson*, 1858, 4 De G. & J. 276; and Lord SHAW in his judgment expressly approved of the *dicta* of KNIGHT BRUCE, L.J., in that case (*ib.*, at p. 282), to the effect that, as a general rule, where a man by gift or purchase acquires property from another, with knowledge of a previous contract lawfully and for valuable consideration made by him with a third person, to use and employ the property for a particular purpose, the acquirer will be bound by the terms of such contract. Such a person, Lord SHAW pointed out, was in the position of a constructive trustee with obligations which a Court of Equity would not permit him to violate. Therefore, as far as ships are concerned, at any rate, it appears necessarily to follow from this judgment, that a mortgagee with notice of a charter will be, in general, bound by the terms thereof. It would still appear to be, however, a moot question whether this principle should be extended to charters which might impair the mortgagee's security, and further, whether it should be applied to all classes of personal property.

NEW CROWN COUNSEL.

The Attorney-General has made the following appointments, the positions having been rendered vacant by the appointment of Mr. V. R. M. Gattie as a Metropolitan Police Magistrate: Mr. F. D. Levy to be Prosecuting Counsel for the Crown at the Middlesex Sessions and Mr. W. B. Purchase to be Junior Counsel for the Crown in Appeals from the decisions of Metropolitan Police Magistrates at the County of London Sessions.

Effect of Disagreement between Justices.

A DIVISIONAL COURT was recently called upon to determine the proper procedure to be adopted where justices, who were holding a preliminary enquiry into a charge of an indictable offence, were unable to agree, and were equally divided upon the question of committing the accused for trial: The *King* v. *Bushby and Others, ex parte, Larsen* (*Times*, 11th November, 1925).

A person was charged with the indictable offence of causing grievous bodily harm by reckless and wanton driving, and the bench of justices was equally divided on the question of committal. The justices thereupon proposed to adjourn and re-hear the case. An application was then made for a *mandamus* to be directed to the justices, to show cause why they should not discharge the applicant from custody. Incidentally, it should be observed that Mr. Justice AVORY, in the course of the hearing of the application for the rule, pointed out that the application was misconceived, inasmuch as the applicant was not in the custody of the justices, but of the goaler, and the rule asked for was a rule to be directed to the justices to show cause why they (the justices) should not discharge the applicant from custody. The proper procedure, apparently, that should have been adopted, was to apply for a writ of *habeas corpus*, directed to the goaler.

However that may be, the substantial question was whether the applicant was entitled to be discharged owing to the disagreement between the justices on the question of committal or whether the justices were notwithstanding entitled to adjourn and re-hear the case in a reconstituted court. As far as summary offences are concerned, there is ample authority for the proposition, that if the justices find themselves equally divided, they have the power of adjourning and re-hearing the case, and the accused is not accordingly entitled to be discharged (see *In re Morgan Evans* 1894, A. C., at p. 18; *Bodmin* v. *Warligen*, 2 Bott and Coust's Poor Laws, pl. 982). Now if this is the rule with regard to summary offences, it would seem that it must, *a fortiori*, be the rule with regard to the preliminary hearing of indictable offences by justices, since in the latter case the justices are not called upon to determine whether the accused is guilty or not, but merely whether there is sufficient evidence on which to commit him for trial. Section 25 of the Indictable Offences Act, however, deals with the point and provides that if the justice or justices shall be of opinion that the evidence is not sufficient to commit, such justice or justices shall forthwith order such accused party, if in custody, to be discharged. The duty to discharge only arises when the justices have in fact formed an opinion that the evidence is insufficient, and until they have arrived at that opinion they are entitled to adjourn or to re-hear the case, by a reconstituted court if necessary. It is found that in one case—*Reg.* v. *Ashplant* (52 J. P. 474), the Court said that where justices were divided in opinion, the proper course was to dismiss the charge, but that case must be read in the light of its own particular facts, which were, that there were, a hearing and two further re-hearings of the charge. What that case merely decided was that when the justices have come to no final decision, and there is an absolute deadlock, by reason of their disagreement *inter se*, then the only proper course is to discharge the prisoner. But that is very different from the case where the justices are in disagreement, but have not come to any *final* decision, and are desirous of adjourning the case, in order that it might be re-heard by a reconstituted court.

S.

MIDDLE TEMPLE TREASURER.

The Hon. Mr. Justice Astbury has been elected treasurer of the Middle Temple for the ensuing twelve months.

Landlord and Tenant Notebook.

Recent Decisions on the Rent Restriction Acts.

Attention should be called to two decisions of importance on the Rent Restriction Acts which were delivered by the Divisional Court on the 22nd and 23rd October, viz., *Gregson* v. *Prior*, *Times*, 23rd October, and *Rush* v. *Matthews*, *Times*, 24th October.

In *Gregson* v. *Prior* a tenant had obtained an order for apportionment, but subsequently, on obtaining further evidence, the landlord succeeded in having the matter re-opened. On the subsequent hearing the registrar reversed the order he had first made and held that the tenant was not entitled to an apportionment, on the ground apparently that the premises in question had been let as a separate dwelling-house in August, 1914. The tenant subsequently applied to the judge to have this decision re-opened, and to have the former position restored, but the judge declined to go behind the decision of the registrar and would not hear any evidence of the tenant on the point. The Divisional Court, however, held that the registrar was not to be regarded as the *alter ego* of the judge, and that the judge was bound to give the tenant a hearing on the point and to hear the evidence adduced; the fact that the application for an apportionment had been refused did not entitle the judge to regard the matter as concluded.

The second case mentioned above, *Rush* v. *Matthews*, is of great interest and importance, because, if the decision of the Divisional Court is upset on appeal, it is evident that landlords will be provided with a loop-hole, whereby the provisions with regard to increasing rent may be evaded in their entirety. The facts in *Rush* v. *Matthews* were shortly as follows: The tenant, on making enquiries about the rent of the premises, was informed that the rent was 25s. a week, but inasmuch as that amount could not be charged under the Acts a lease for fourteen years at a weekly rent of 13s. 6d. would have to be drawn up. In addition, the tenant would have to sign a document whereby he was to agree to pay a sum of 11s. 6d. per week *by way of premium*. Under the terms of the lease the tenancy was determinable by the tenant by a week's notice, but there was no similar provision in favour of the landlord. Now s. 8 (3) of the Act of 1920 provides that the provisions of s. 8 with regard to restrictions on the taking of premiums are not to apply "to the grant, renewal or continuance for a term *of fourteen years or upwards* of any tenancy," and it was argued that this s. 8 (3) applied, and that the landlord was accordingly entitled to 11s. 6d. per week by way of premium. Although the tenant succeeded in persuading the county court judge to accept this contention, his efforts proved unsuccessful on appeal by the landlord to the Divisional Court, that court holding that the weekly sum of 11s. 6d. per week was in effect rent and not a premium. Should the Court of Appeal affirm the decision of the Divisional Court, ingenious minds will no doubt turn their attention to discovering some method of successfully evading the Rent Restrictions Acts in this respect.

Covenant by Lessor as to External Repairs.

In the absence of any express agreement a landlord is not under any obligation (unless it be statutory as in the case of dwellings coming within the Housing Acts), to do any repairs whatever. Where a landlord has covenanted with the tenant to do repairs, before the landlord can be made liable for breach of covenant, it will be necessary to show that the landlord has had *notice* of want of repair. This point was decided in *Makin* v. *Watkinson*, 1870, L.R. 6, Ex. 25. Where the landlord receives notice of want of repair from the tenant, the landlord will be liable for breach of covenant if he neglects to do the necessary repairs, but the question does not appear to have been definitely decided whether the landlord will be equally liable where he receives notice of the

want of repair *aliunde*. In *Torrens* v. *Walker*, 1906, 2 Ch. at p. 172), Warrington, J., was of opinion that the landlord would not be liable, unless he received notice from the tenant, but it is submitted that there seems no reason why the landlord should not be held liable, so long as he is aware of the state of disrepair, whatever may be the manner in which the fact of the disrepair came to his knowledge. The recent decision of Mr. Justice Wright in *Griffin* v. *Pillet*, 70 Sol. J., p. 110, and see 70 Sol. J. p. 120, appears to incline to this view.

This decision is moreover of importance, because it is authority for the principle, to which reference has been made above, that the lessor will be liable even if he receives notice of the disrepair, not from the tenants, but *aliunde*, inasmuch as Mr. Justice Wright expressly held, that, if the letter from the lessee did not constitute a sufficient notice, the actual knowledge of the condition of the steps which the lessor acquired by the letter from his agents (the builders) prevented him from setting up the absence of notice of non-repair.

S.

A Conveyancer's Diary.

Wills: Real Estate Charges Acts: Ad. of E.A., s. 35.

An alteration in the law affecting chattels personal and contained in s. 35 of the Ad. of E.A., 1925, may call for a reconsideration of wills already drafted as well as for care in the preparation of future testamentary instruments. That section in effect provides that charges "whether by way of legal mortgage, equitable charge or otherwise (including a lien for unpaid purchase money)" on property of which a deceased person has disposed by will are to be paid primarily out of the property charged. This however, is subject to "any contrary or other intention," which the deceased has signified "by will, deed or other document," and the section is not to affect the right of the owner of the charge to obtain payment out of the other assets of the deceased "or otherwise." In other words the principle of the Real Estate Charges Acts, 1854, 1867 and 1877 (which are repealed by the 2nd Sched. to the Ad. of E.A., 1925), is extended to property generally. Those statutes have been held to apply to chattels real as well as to real estate: *Re Kershaw*, 1888, 37 Ch. D. 674 (bequest of leasehold house); and *Re Fraser*, 1904, 1 Ch. 726 (rentcharge issuing out of leaseholds). But until 1st January next, a charge created by a testator upon chattels personal specifically bequeathed is primarily borne by the general personal estate not specifically bequeathed: *Lewis* v. *Lewis*, 1871, L.R.13 Eq. 218; *Bothamley* v. *Sherson*, 1875, L.R. 20 Eq. 304, at pp. 315-6. Where, therefore, wills have been drawn up on the basis of the old law in this respect, the question should be considered whether or not it is necessary to prepare short amending codicils to ensure that such wills give expression to the testators' intentions.

Appointment of S.L.A. trustees to be executors of Settled Land.

Another matter that may have to be dealt with by a codicil is the appointment of the S.L.A. trustees of a settlement to be executors as respects land settled before the death of the testator. The Ad. of E.A., 1925, s. 22, enacts that a testator may appoint, and in default of such express appointment shall be deemed to have appointed the persons who at his death are the trustees of the settlement to be his special executors in regard to settled land, *i.e.*, land settled previously to his death and not by his will. This section does not, it may be observed, render it necessary for such appointment to be made; it simply enables its being done.

In view of the facts that such appointment is not compulsory and that s. 23 of the same Act contains elaborate provisions for rectifying matters in cases where testators have not complied with s. 22 but have appointed persons other than the trustees of the settlement to be executors of settled land, it may be thought unnecessary to make an express provision for the appointment of special executors of settled land. It is submitted, however, that it will be expedient and will become the practice in all cases where there is settled land to which s. 22, *supra*, applies to appoint the persons who are at the testator's death the S.L.A. trustees of the settlement to be the executors as respects settled land. Such an appointment should, no doubt be made in general terms without expressly referring to the trustees by name. It avoids confusion and brings home to the general executors the fact they are not the executors as respects settled land.

LAW OF PROPERTY ACTS.
Points in Practice.

In this column questions from Annual Subscribers are invited and will be answered by an eminent Conveyancer. All questions should be addressed to—The Manager, "The Solicitors' Journal," Oyez House, Fetter Lane, E.C.4. The name and address of the Subscriber must accompany all communications, which should be typewritten (or written) on one side of the paper only, and be in triplicate.

Undivided Shares in Settled Land.

43. *Q.* By virtue of the will of a testator who died in 1899, and a deed of family arrangement of 1924, realty is held by the present trustees of the will, as to one undivided moiety in trust for eight persons all *sui juris* absolutely, but subject to and charged with the payment of annuities in favour of two of their number during spinsterhood, and as to the other undivided moiety in trust for four other persons, also all *sui juris* in equal shares for life, with remainder to the issue of such persons *per stirpes*. Under these circumstances, are the present trustees of the will, the original trustees not having been appointed by the will trustees for the purpose of the S. L. A., 1882 to 1890, to be considered as trustees for the purposes of the S. L. A., 1925? Can there be deemed to be any person or group of persons having the powers of a tenant for life, or are the trustees "statutory owners"? In the latter event will it be sufficient for the trustees to assent to the vesting in themselves as such statutory owners of the realty, or is a formal deed necessary?

A. An undivided share of land is not "land" within the definition in the S. L. A., 1925, s. 117 (1) (ix). However, having regard to s. 1 (1) (v) and (i), a possible view is that, since each moiety would have been settled land within the definition, the two moieties added together to make the entirety, make a settlement, and consequently Pt. IV, para. 1 (3) of the 1st Sched. of the L. P. A., 1925, applies, creating a trust for sale vested in the trustees of the compound settlement of the will and deed. But no doubt the better view is that the land is held in trust for persons in undivided shares within para. 1 (1) of Part IV, *supra*, with the same result. In any case, para. 1 of the 2nd Sched. to the S. L. A., 1925, does not apply: see 1 (5); but the same result as above would follow under s. 36 (1) and (2) of the S. L. A., 1925. Thus the trustees of the will being also trustees of the settlement created by the will and deed, hold on trust for sale, with power to postpone sale under s. 25 of the L. P. A., 1925, and the express powers of management conferred by s. 28 of that Act. Land held on trust for sale is not "settled land" within s. 1 of the S. L. A., 1925, so no vesting deed is necessary. The trustees will therefore sell the land under the trust as and when they think fit, and meanwhile exercise their powers under s. 28.

ANNUITIES CHARGED BY WILL.

44. *Q.* A testator who died in 1924 bequeathed to his widow and daughters annuities, which he declared should be "charged upon and issuing and payable out of his freehold estates." The will contained power to the annuitants to recover their annuities by distress and entry upon the charged estates, and subject to the payment of the annuities, testator devised his estate "unto and to the use of his son, A B for his own use absolutely." He appointed C D and E F the "executors and trustees" of his will. In September, 1924, the executors assented in writing to the devise of all the real estates to the son, subject to the usual charge for debts, etc. All the debts and funeral expenses have been paid and the executors' duties as such have been completed. The residuary account is passed, and the estate wound up, except as to future instalments of estate and succession duty on the real property. If the annuitants are living on the 1st January, 1926—

(1) Is the will a "settlement" under the definition in the S.L.A., 1925, s. 1 (1) (v)?

(2) If so, is a vesting deed necessary?

(3) If so are the trustees of the will *ipso facto* trustees of the settlements? and

(4) While the annuitants live, must the whole of the real estate be dealt with as settled land, so that the powers of A B are restricted to those of a tenant for life, and not as owner in fee, which he is to-day, unrestricted except by the charge of the annuities.

A. (1) Yes.

(2) Yes, if A B wishes in any way to deal with the estate, see S.L.A., 1925, 2nd Sched., para. 1 (1) and (2), and s. 13.

(3) Yes, see S.L.A., 1925, s. 30 (3).

(4) Yes, so long as the annuities remain charged. But it must be remembered that the annuities are "rents" within ss. 191 and 205 (1) (xxiii) of the L.P.A., 1925, and A B may therefore redeem them under s. 191 and then require a deed of discharge from the trustees under s. 17 of the S.L.A., 1925.

STRICT SETTLEMENT. RE-SETTLEMENT. POWER OF APPOINTMENT.

45. *Q.* By deeds executed in 1859 and 1874, an estate was settled on the usual terms of strict settlement. By 1900 all the portions, charges, etc., had been paid off or released, and when A, the tenant-in-tail in possession, came of age in 1913, he executed a disentailing assurance, whereby the estate was granted to X, freed and discharged from the estate tail and all the remainders, etc., to such uses upon such trusts and with and subject to such powers and provisions as A should by deed, revocable or irrevocable, or by will or codicil appoint, and in default of and until such appointment and so far as no such appointment should extend, to such uses, upon such trusts and with and subject to such powers and provisions as were subsisting in the estate immediately prior to the execution of the disentailing deed, and so as to restore the same trusts, powers and provisions. Since the execution of this deed all sales have been made and building leases granted in exercise of the general power of appointment thereby conferred. In whom will the legal estate vest on 1st January, 1926, and how should sales, etc., be subsequently carried out?

A. A has an entailed interest, and therefore, although it may be barred or defeated, the land the subject of it is settled land under ss. 1 (1) (ii) (*a*) and 2 of the S.L.A., 1925. He has the legal estate, but there must nevertheless be a vesting deed under para. 1 (2) of the 2nd Sched. to the Act. The present method of dealing with the property by exercising the power of appointment will have become inappropriate, see s. 1 (7) of the L.P.A., 1925. A must exercise his powers as tenant for life under the S.L.A., 1925, unless he prefers to disentail and deal with the property as absolute owner, which seems the simpler course. F.

The Law Society.

LAW OF PROPERTY ACTS LECTURE

(Fourth of the Series),

BY SIR BENJAMIN CHERRY, LL.B.,

ON WEDNESDAY, 25TH NOVEMBER, 1925.

[*Verbatim Report.*]

ERRATA.

The following corrections are made in the printer's errors which unfortunately crept into the "Questions and Answers" on the Law of Property Acts lecture by Sir Benjamin Cherry, printed in the last issue of THE SOLICITORS' JOURNAL:—

Page 124, *A.* 2, for "s. 15" read "Sch. 15," and for "taken" read "liable."
A. 3, for "rightly" read "might."
A. 5, for "puchaser" read "purchaser."
A. 7, for "power" read "powers."
A. 8, for "before" read "when."
A. 9, after "I think" read "that."
Page 126, *A.* 18, for "individual" read "undivided."
Page 127, *A.* 29, for "be" read "he."

QUESTIONS AFTER LECTURE No. 3.

By Messrs. SAYLE, CARTER & CO.

1. *Q.* With regard to the words "Except that in Pt. I of this Act and elsewhere where so expressly provided" in s. 205 (1) (xxi) do the words "where so expressly provided" qualify the word "elsewhere" only?

A. Yes.

2. *Q.* Or do they govern the expression "except that in Part I of this Act and elsewhere"?

A. No.

3. *Q.* It is submitted that the former interpretation is the more natural one, and is what is intended, so that the expression "Purchaser" wherever used in Pt. I of the Act means "a person who acquires an interest in or charge on property for money or money's worth"?

A. Yes.

4. *Q.* This point is raised because there is an intimation in a legal paper referring to a section in Pt. I of the Act, viz.: s. 3, s-s. 6, that "purchaser" means "a purchaser in good faith for valuable consideration."

A. I think the learned editor went astray. But all the definitions are subject to qualification according to context.

5. *Q.* Section 13 (2) of the Land Charges Act provides that certain land charges if unregistered shall be void against a purchaser for valuable consideration, whilst others, if unregistered, are to be void against a purchaser of a legal estate for money or money's worth?

A. Yes.

6. *Q.* Section 205 (1) (xxi) of the Law of Property Act would appear to apply one definition only to the word "purchaser" in Pt. I of the Law of Property Act including ss. 2 and 3?

A. Yes.

7. *Q.* As these two latter sections deal with the question of purchasers acquiring a legal estate free from equitable interests (including both classes of land charges above referred to) we find it rather difficult to fit in the meaning given to the word "purchaser" in ss. 2 and 3 of the Law of Property Act with the two alternative meanings according to the interest to be overreached in s. 13 (2) of the Land Charges Act?

A. The Law of Property Act deals with overreaching or shifting from land to proceeds. The Land Charges Act deals with enforceability, hence the distinction.

8. *Q.* Does s. 28 (1) give to trustees for sale all the powers of a tenant for life and the trustees of a settlement under the Settled Land Act, or is the wording of the section in any way limited by the marginal note "powers of management, etc., conferred on trustees for sale"?

A. Yes. The marginal note is not material.

9. *Q.* We believe that the usual rule is that marginal notes do not govern the construction of the text of an Act, but this question is asked because there is an intimation in a legal paper, that it is likely that the sub-section refers to management powers only?

A. There is no proper foundation for this doubt. Only leasing powers and powers to accept surrenders can be delegated. I think the learned editor must have been bearing these latter powers in mind.

10. *Q.* We gather from ss. 16 and 17 of the Law of Property Act that in the case of unregistered land it will still be necessary for a purchaser to see that a certificate of discharge from death duties is obtained from the Commissioners of Inland Revenue in respect of any death duties which have been registered as land charges under the Land Charges Act, but that in the case of registered land by virtue of s. 73 (1) of the Land Registration Act a purchaser will be able to take a transfer free from all claims for death duties notwithstanding the fact that such claims have been entered on the register?

A. Yes.

11. *Q.* Is this the correct interpretation of the position?

A. Yes.

12. *Q.* What is the reason for unregistered land being treated differently in this respect?

A. Because the registrar will communicate with the Inland Revenue and they will, if necessary, lodge a caution.

13. *Q.* Do the concluding words "being a Conveyance to a purchaser" made under the Settled Land Acts, 1925, or pursuant "to a trust for sale" limit the meaning of the expression "the estate owner" at the beginning of this sub-section to a tenant for life or trustees for sale?

A. No. The sentence begins "or any interest therein capable of being overreached."

14. *Q.* Is the expression "the estate owner" in the sub-section meant to include a beneficial owner who has sold to a purchaser?

A. Yes.

15. *Q.* If the former construction is correct, what is the object of confining the meaning of the expression "the estate owner" in this section to tenants for life and trustees for sale only?

A. The words quoted extend the accountability. The construction suggested is not correct.

16. *Q.* Is this sub section wide enough to enable a disposition under the Act to overreach an annuity, a limited owner's charge, or a general equitable charge, even in the case of any such equitable interest having been created by the tenant for life or his predecessor in title before the creation of the settlement?

A. Yes. Under the Act if there is a compound settlement the trustees thereof must act, s. 1. See also Law of Property Act, 1925, s. 42.

17. *Q.* It seems that the sub-section is general in terms and would cover such equitable interests, even if created before the settlement was executed?

A. That is the intention.

18. *Q.* If this is the case it is assumed that trustees for sale could in like manner overreach any of the three equitable interests above mentioned on a sale to a purchaser by virtue of the provisions of s. 28 (1) of the Law of Property Act giving trustees for sale all the powers of a tenant for life?

A. That is the view I have adopted, but if the courts hold that s. 72 does not apply that answers the whole question.

19. *Q.* If the above interpretation is correct it would appear that it would not be necessary for a beneficial owner to create a special trust for sale under s. 2 (2) of the Law of Property Act?

A. Subject to what the court may hold I think a special trust for sale would be required on the ground that s. 2 (2) must be complied with. It corresponds to the law relating to compound settlements.

20. *Q.* A special settlement under s. 21 of the Settled Land Act in order to enable trustees for sale or a tenant for life, as the case may be, to overreach any of the three above-mentioned equitable interests on a sale to a purchaser would not be required?

A. Section 21 (relating to absolute owners) should be complied with where applicable. Similarly Settled Land Act trustees of a compound settlement must (if there are none) be appointed if the equitable interest is an interest arising under such a settlement. In other cases the suggestion is correct if there is an ordinary settlement.

21. *Q.* Would it be sufficient to create an ordinary trust for sale or an ordinary settlement, with individuals as trustees who have not been appointed or approved by the court?

A. An ordinary trust for sale can subsequently be made to comply with s. 2 (2), or, when the interest arises under a settlement, compound trustees can be appointed. It might have been possible to have dealt with the three interests in question in the manner suggested and it may be the court will hold that we have done so, but the object of the overreaching provisions was not merely confined to these three cases. Having constructed the overreaching powers, it was more consistent to make them applicable to equitable interests generally, subject to the express exceptions.

22. *Q.* There is an article in a law paper to the effect that trustees for sale have not this power to sell mines and minerals apart from the surface. The reasons given by the writer of that article appear to be (*a*) that the words "whether the division is horizontal, vertical or made in any other way" are only applicable to buildings, and (*b*) that no power is given by the section to convey rights of working minerals. Is the interpretation of the writer of the article correct, or are his objections met in the definition of land in s. 68 (6) of the Trustee Act as to objection (*a*) by the words "and mines and minerals, whether or not severed from the surface," and as to objection (*b*) by the words "and powers of working and getting the same"?

A. The article is quite off the rails. Trustees for sale have power to do this by virtue of the Law of Property Act, s. 28 (1), and the Settled Land Act, 1925, s. 50.

23. *Q.* Will a receipt signed under this section authorize the mortgagor or his solicitor to pay the mortgage money to the mortgagee's solicitor, or will it be necessary to obtain from the mortgagee an authority for the money to be paid to his solicitor? The provisions of s. 69 (1) of the Act as to endorsed receipts would appear not to cover endorsed receipts under s. 115 as the former section apparently relates only to receipts for money passing under the deed on which they are endorsed.

A. Section 69 speaks of "a receipt for consideration money or other consideration." What is the authority for saying that s. 69 relates only to receipts for money "passing under the deed on which they are endorsed"? On the language I should take a different view. However, I think the general practice under s. 115 will be to take receipts under seal, hence the point should not arise.

By Mr. G. Sandeman.

24. *Q.* Freeholds are at present vested in two trustees, A and B, under an old will upon trust for A (one of the trustees) for life with remainder to B and her sister absolutely. The trustees have no power of sale and are not trustees for the

purposes of the Settled Land Act, 1882. Will a vesting deed executed in the form contained in the 1st Sched. to the Settled Land Act, 1925 (see para. 3) after the 1st January, 1926, make them trustees for the purposes of the Settled Land Act, 1925, and capable of giving receipts for capital moneys paid to them ?

A. No.

25. *Q.* If it does not, would para. 2 of the 2nd Sched. to the Settled Land Act, 1925, apply to such trustees at all, and is there any way, other than an application to the court, of appointing them such trustees ? Who are the persons meant or referred to in para. 3 of same schedule as " able " to appoint ?

A. An application must be made to the court to appoint Settled Land Act trustees unless A B and her sister, as the persons who together have control over all the equitable interests, make an appointment under the Settled Land Act, 1925, s. 30 (1) (v) which confirmed the old law. This alternative should be adopted if the parties can agree.

By Mr. Walton.

26. *Q.* Where the legal estate in land is now vested in trustees, who have no power of sale under their trust settlement, and the tenant for life after the 1st January, 1926, requests the trustees to execute a vesting deed in his favour, will such trustees be compelled to execute a vesting deed ?

A. For this purpose vesting deeds can only be made by Settled Land Act trustees. If the trustees do not by virtue of the Settled Land Act, 1925, s. 30, become Settled Land Act trustees they must refuse to execute the deed. The mere absence of *a* power of sale does not necessarily show that they are not Settled Land Act trustees.

27. *Q.* Where trustees in a personalty settlement have power to invest in and have invested in freehold ground rents, and have power to change such investments, but without express power of sale, will that constitute them trustees for the purposes of the Settled Land Act and empower them to execute a vesting deed at the request of a tenant for life ?

A. If the settlement was made after 1911 the trustees will hold on trust for sale : Law of Property Act, 1925, s. 32. If it was made before 1912 the power to purchase land probably directs that it shall be held in trust for sale. Only if there is no trust for sale, express or implied, will a vesting deed be required. If there is no trust for sale it is probable that there is an implied power of sale. That would constitute Settled Land Act trustees who would then execute a vesting deed.

By Mr. Benham.

28. *Q.* Section 28 of the Law of Property Act, 1925, contains the following paragraph : " All land *acquired under this sub-section* shall be conveyed to the trustees on trust for sale." The sub-section deals with powers of management conferred on trustees for sale and does not expressly contain any power to acquire land. How is this paragraph explained ?

A. The sub-section gives to trustees for sale all the statutory powers of a tenant for life and of Settled Land Act trustees. One of these powers consists of a power to purchase land : Settled Land Act, 1925, s. 73.

By Mr. S. Johnson.

29. *Q.* Have the following expressions the same meaning (*a*) " an effectual trust for sale," in para. ii of s. 39 (1) of the Administration of Estates Act, 1925 ; (*b*) " an immediate binding trust for sale," in para. viii of s. 20 (1) of the Settled Land Act, 1925 ; (*c*) " trust for sale," in s. 33 (1) and para. iii of s. 30 (1) of the Settled Land Act, 1925 (compare s. 117 of the Settled Land Act, 1925, and s. 205 of the Law of Property Act, 1925) ?

A. For practical purposes, yes. The variation in language is attributable in each case to the context.

By Mr. O. Western.

30. *Q.* Property is settled in 1905 on A for life, remainder to B in fee. In 1920 A and B concur in selling the property to C, A selling his life interest and B his reversion. In 1926 C contracts to sell the property to D (A being still alive). Has the succession duty on A's death " attached before the commencement of the Act," within the meaning of s. 17 (1) ?

A. Yes. Succession duty attaches under the instrument creating the succession, though it may become payable when the settlement is at an end.

By Mr. M. W. Harwood.

31. *Q.* In the absence of any stipulation to the contrary in the contract, must a purchaser pay the costs of production, for verification of the abstract, of deeds in the possession of the vendor's mortgagee or trustee ? Section 45, s-s. (4), of the Law of Property Act, 1925, appears to imply that a vendor ought to produce these at his own expense, but there seems to be no provision compelling him to do so.

A. These deeds after 1925 are treated as being in the vendor's possession, hence he must arrange for their production and cannot charge for doing that.

By Mr. G. D. Muggeridge.

32. *Q.* Having regard to the Law of Property Act, s. 44 (5), how can a restrictive covenant in future be made really effectual so as to be enforceable by injunction and not merely give rise to an action for damages ? If the owner of freehold land subject to a restrictive covenant should grant, say, a building lease for ninety-nine years without mentioning the restrictive covenant, it seems that under s. 44 (5) the lessee will not be affected with notice, and consequently the restrictive covenant could not be enforced by him by injunction. The remedy in damages against the lessor might in many cases be very unsatisfactory. Even if the restrictive covenant should be registered under the Land Charges Act, s. 10, the position would appear to be the same.

A. Section 44 (5) only relates to the paper title. If a land charge has been registered the lessee is affected by notice, for under s. 198 the registration is actual notice to the world.

33. *Q.* " Such conveyance *may* be made in the name of the estate owner." (Similar provisions in s. 8 (1)). This appears to be permissive only and to amount to a sort of statutory power of attorney. But is it of any practical use ? Is there any advantage whatever in making the conveyance in the name of the estate owner ?

A. I have already explained in my last lecture that the *power* given to a mortgagee to convey in the name of the mortgagor was inserted to make it clear that the mortgagee had an option and was not bound under s. 7•(4) to execute in the mortgagor's name. Under s. 8 mortgagee's leases will generally be granted in the name of the mortgagor.

34. *Q.* How can a personal representative be selling *settled* land for the purposes of administration ? Also, how can *a* personal representative give a receipt for any capital money in the face of s. 94 ?

A. The personal representatives in regard to land settled before the death will be the Settled Land Act trustees. Before they make a vesting assent it may be expedient to sell some land to pay death duties or charges affecting the settled land. If the land is settled by the will, the title of the personal representatives is paramount to the settlement so made. They can similarly sell before assenting. Section 94 only relates to Settled Land Act trustees as such. There is nothing in the Acts to prevent a sole personal representative from giving a receipt. And see Law of Property Act, s. 27 (2).

35. *Q.* In future, will a sole executor be able to give a valid receipt for the purchase money of land ? The same question as regards a sole administrator, in cases where a single administrator is allowed. The Law of Property Act, s. 27 (2), seems to recognise the right of a sole personal representative to give valid receipts. The question seems to be whether a sole executor or administrator is acting " under a disposition on trust for sale of land "—see s. 14 (2) (*a*)—there being no definition of this phrase ?

A. Yes, a sole personal representative, acting as such, whether he be an executor or administrator, can give valid receipts. But during a minority or the subsistence of a life interest representation will not be granted to less than two individuals. Power is taken to keep the number up to two.

By Mr. W. Aitchison Young.

36. *Q.* Where a vendor sells land on the terms that a purchaser shall enter into restrictive covenants binding the land sold, how is the vendor to prevent the land being sold, mortgaged or let by the purchaser, before the vendor registers the restrictive covenant under the Land Charges Act? The purchaser may bring his mortgagee or sub-purchaser to the completion of the sale, and complete the mortgage or sub-sale contemporaneously. In such a case the mortgagee or sub-purchaser will take free from the unregistered restriction, even though he takes with notice thereof. See Land Charges Act, s. 13 (2) and the Law of Property Act, s. 199 (1).

A. The vendor can arrange at the land registry for the registration of the land charge as of the date of actual completion, if necessary by telephone. The mortgag e or sub-purchaser will then be bound. The mortgage or sub-conveyance should in accordance with the usual practice bear date the day after the principal conveyance.

By Mr. Maurice Smelt.

37. *Q.* When is a mortgage to be made: (1) In the authorised form for a term of 3,000 years; (2) by a statutory charge (4th Sched.); or (3) by way of legal charge (5th Sched.)?

A. This is left to the discretion of the parties. Generally method No. 3 will be adopted.

By Mr. Chater.

38. *Q.* Mortgages in 1925 of Freeholds—What will be the correct form of reconveyance or discharge of the same in 1926?

A. An endorsed receipt under the Law of Property Act, 1925, s. 115.

By Mr. J. Jones.

39. *Q.* Section 10 (1) of the Land Charges Act provides, under class C, that puisne mortgages may be registered as land charges " . . . but if created before [1st January, 1926] only if acquired under a conveyance made after [31st December, 1925] . . ." How can this provision be reconciled with s-s. (7) of the same section, and with para. 6 of Pt. VII of Sched. I of the Law of Property Act?

A. Class C relates to puisne mortgages made or transferred after 1925, which must be registered to secure their priority under the Law of Property Act, 1925, s. 97. Sub-section (7) relates to the legalisation of mortgages made before 1925 for the purposes of 2nd Sched., Pt. VII, para. 5, and Pt. VIII, para. 6. A year is given from the date of transfer within which they must be registered.

By Mr. W. D. Milliken.

40. *Q.* By s. 11 of the Law of Property Act, letters of administration granted after 1925 should be registered in the Middlesex Registry. Does this imply that letters of administration dated prior to 1926 and not so registered, may constitute a defect in title?

A. No.

41. *Q.* Is there any advantage or necessity for a mortgagee to make a written declaration referred to in s. 87 of the Law of Property Act or can he safely rely on Pts. VII and VIII of Sched. I?

A. The advantage of converting a mortgage by demise into a charge by way of legal mortgage is that it simplifies future dealings and brings it into line with the practice to be adopted after 1925.

By Mr. Wadeson.

42. *Q.* Where a purchaser registers his contract as a land charge and shortly before completion applies by post for a general certificate of search under the Land Charges Act which is received by post on the morning of the date of completion. Are there any means by which a purchaser can be made secure against anything registered after the issue of the certificate and before actual completion?

A. Whether or not the purchaser registers a land charge, a continuation search is authorised under the forms prescribed by the Land Charges Rules. Under the Land Charges Fee Order Rules arrangements can be made for telegraphing or telephoning the result of a search at the cost of 2s. 6d., which includes the cost of the telegraph or telephone it that does not exceed 1s.

By Mr. E. H. N. Wilde.

43. *Q.* Equitable mortgages by companies without the deposit of the deeds, *e.g.*, debentures, are exempt from registration under the Land Charges Act, s. 10 (5). If they deal with land in Yorkshire they may be registered there (Land Charges Act, s. 10 (6)), but Law of Property Act, s. 11, seems to make such registration of little use. Should such mortgages be registered in Yorkshire?

A. The registration of debentures at Somerset House (Companies Register) operates as the registration of a land charge. No further registration is required of an equitable charge. The Law of Property Act, 1925, s. 11, relates to the registration of memorials of documents transferring or creating a legal estate. If debentures are secured by a trust deed creating a legal mortgage or charge this should be registered in the local deeds register; this takes the place of the registration of a land charge.

By Mr. H. B. Bingham.

44. *Q.* Freehold property, consisting of houses which can be best dealt with by letting on short lease, was devised to trustees to receive rents and manage with full powers of leasing and to pay net income to two elderly ladies or the survivor during their lives and then on trust for sale. It has been the practice for the trustees with the consent of the equitable tenants for life to grant occupation leases from time to time, the consents not being expressed in the leases. Does s. 108 of the Settled Land Act, 1925, operate to put an end to this practice which is convenient for all parties?

A. Yes. The land will vést in the two tenants for life unless they are tenants in common, and there must be a vesting deed. If there is a tenancy in common the land will be retained by the trustees on trust for sale and there will be no change.

By Mr. Muggeridge.

45. *Q.* Land held upon trust for sale upon the happening of some event in the future seems to be outside the provisions of the Law of Property Act, ss. 23-33, there being no " immediate binding trust for sale "?

A. That is so.

46. *Q.* Does it come under the Settled Land Act, *i.e.*, is there " a settlement " within s. 1 of the Settled Land Act, 1925? What powers of sale, leasing, and management are there before the happening of the future event?

A. A future trust for sale does come within the Settled Land Act, it constitutes the trustees Settled Land Act trustees. Pending the time when the trust for sale comes into force there will be a settlement within s. 1. Generally there will be a tenant for life within the Act; if not the Settled Land Act trustees will be the statutory owners and have the powers of a tenant for life.

47. *Q.* A and B, in December, 1925, are tenants in common of freehold land and become, on 1st January, 1926, joint tenants upon trust for sale. If A then dies, it seems that B,

as the survivor, cannot, as sole trustee, sell and give valid receipts for the purchase money ?

A. Quite right.

48. *Q.* Under the present law A's executors and B could jointly deal with the land, but having regard to the Law of Property Act, s. 42, will this be possible in the future ?

A. It will not be possible after 1925, for under s. 27 the purchase money must be paid to at least two trustees of the trust for sale

49. *Q.* Will it be necessary that a new trustee be appointed in place of A before anything can be done with the property ?

A. Yes. B should appoint a new trustee in place of A. If desired, he can appoint A's executors to act with him, provided that the number of trustees is not increased beyond four. This will be better than bringing the equities on to the title.

By Mr. Gamlen.

50. *Q.* If a perpetual rent-charge is voluntarily granted to a charity, is this a family charge within the Settled Land Act, 1925, s. 1 (1) (v), so as to render it necessary for a purchaser of any part of the land affected thereby, though indemnified against it, to make title as if he were a person having the powers of a tenant for life ?

A. I have dealt with this point fairly fully in my lecture. The rent-charge is a legal estate, and no vesting deed is required under the Settled Land Act, 1925, s. 13, before title can be made. If desired, the rent-charge can be redeemed under the Law of Property Act, 1925, s. 191.

By Mr. G. E. Shrimpton.

51. *Q.* Before the 1st January, 1926, a tenant for life of settled land has sold his life estate. In whom will the legal estate in the settled land vest on the 1st January, 1926 ?

A. The tenant for life did not lose his statutory powers. The legal estate will vest in him as a trustee. If any difficulty arises the court can give the powers to the Settled Land Act trustees.

52. *Q.* Under the provisions contained in a settlement the tenant for life of a settled estate has forfeited his life estate by attempting to create a charge upon it. During the remainder of his life the income is payable to the trustees for the purposes of the Settled Land Acts, who are directed to pay thereout certain annual sums and, subject thereto, hold the income upon the usual discretionary trusts for the benefit of the life tenant, his wife and children. In whom will the legal estate in the settled land vest on the 1st January, 1926 ?

A. If the tenant for life has lost his statutory powers the legal estate will vest in the statutory owners, viz., the persons, if any, who have them under the settlement; in default the Settled Land Act trustees will be the statutory owners.

By Mr. G. H. Cholmeley.

53. *Q.* In 1920 A bought a field which was part of a large estate charged under X's will with an annuity. A accepted an indemnity in respect of the annuity. It is conceived that on 1st January, 1926 (the annuitant being still alive) A's field automatically becomes settled land and A becomes a tenant for life (Settled Land Act, s. 1 (1) (v); s. 2). To whom must a purchaser from A pay the purchase money ? (There never were nor are any trustees of X's will.)

A. To the Settled Land Act trustees when constituted. If there are executors they will become Settled Land Act trustees.

54. *Q.* Can A get hold of the purchase money before the annuitant dies ?

A. If the annuitant consents, having other or sufficient security, the trustees can hand over the money to A.

By Mr. Frederick W. Brown.

55. *Q.* In a case where the whole of the settled land has been sold and the proceeds invested in trustee securities will there be any necessity for a vesting deed ?

A. No.

56. *Q.* The tenant for life is proposing to purchase a new mansion house shortly ?

A. A vesting deed will then be required. It will be the instrument under which the land is acquired. I assume that the purchase is completed after 1st January next.

By Mr. T. D. Cox.

57. *Q.* The provisions of s. 36 of the Administration of Estates Act, 1925, would appear to have the effect in certain cases of making grants of probate and letters of administration documents of title. Is this so ?

A. Undoubtedly this is so.

58. *Q.* In cases of assents and conveyances of legal estates by the personal representative to a person entitled and of sales by a personal representative as such, the person to whom the legal estate is conveyed must in future presumably require the personal representative to give him an acknowledgment for production of the grant. Is this so ?

A. Yes, this has been provided for in the General Conditions of 1925.

59. *Q.* Grants of probate of wills are sometimes issued in duplicate and more than one duplicate can be obtained. Presumably any endorsements required to be put on the probate by this section must be put on all the parts of the probate. Is this so ?

A. The endorsements should be on the original. The duplicate should show that it is a duplicate.

60. *Q.* Is it a purchaser's solicitor's duty in future to see when a probate comes on the title whether more than one part of the grant of probate has been issued out of the registry, and if more than one has been issued to inspect them all ? Sometimes it may be impossible to do this, *e.g.*, where the duplicate has been obtained for use in a foreign country or colony.

A. No, he should inspect the original.

61. *Q.* In a case where probate has been issued in duplicate must a purchaser or other person entitled to an acknowledgment for production of the grant, obtain an acknowledgment for production of all parts of the probate ?

A. No, the original.

62. *Q.* Where there has been a grant of probate and subsequently a grant of double probate, must both grants be endorsed under this section and an acknowledgment for production of both grants be obtained by the person deriving title to a legal estate from the personal representatives ?

A. No. The grants should be bound together.

63. *Q.* Where a grant of probate has been endorsed under this section and subsequently double probate of the will has been obtained, must all endorsements then on the probate be made on the double probate, and if so whose business is it to see that this is done ?

A. No. It is merely a matter of securing that a purchaser shall get notice if he inspects. Treat the grants as one document.

LECTURE No. 4.

The President (Mr. Herbert Gibson, M.A.): The thirst for information on points which arise or may arise under the new Act has proved so great, resulting in 93 questions on the third lecture alone, that Sir Benjamin Cherry will suggest a new method of dealing with the questions in future.

Sir Benjamin Cherry: Mr. President and gentlemen, before my last lecture I answered no less than thirty odd

questions, and this did not allow me sufficient time to deliver my lecture without unduly hurrying through it in order that you might not lose your dinners. In future, therefore, I propose to adopt a practice which obtains in the House of Commons, and only answer orally a few selected questions. The other questions I propose to answer in the two legal papers in which my lectures are published. After the last lecture I was left with more than 60 questions to dispose of, the answers to these you will find in THE SOLICITORS' JOURNAL and in the "Law Times" of this week; sufficient space could not be found for them in last week's issues. Ninety odd posers are, I think you will agree, a fairly liberal allowance. But I do not wish to discourage questions, far from it—an ounce of practice is worth a pound of theory. The concrete answers all help to drive home the abstract principles which I am endeavouring to make plain.

I must, however, ask gentlemen to state their facts crisply, to keep each question distinct, and to remember that I am not a "clearing house" for refuse.

To-day we have to deal with the subject of the preparation of deeds and other documents. I will first say a few words in regard to contracts for sale.

Contracts for sale.

Thanks to the wise action taken by your Society in adopting the General Conditions of 1925, I do not think any of you will have much difficulty if this form is used. You could not do better, I think, than peruse that form from end to end, when you have leisure to do so, and observe the notes made for making use of the form for different purposes.

It has been drawn, not only from a practical, but, in a minor degree, from an educational point of view, and that is the reason why I so strongly recommend you to make yourselves well acquainted with its provisions.

When you have to deal with contracts by correspondence you will please not forget the form prescribed by the Lord Chancellor under s. 46 of the Law of Property Act.

You will find that the law in regard to contracts relating to land has been consolidated in Pt. II of the Law of Property Act, ss. 40-50.

In preparing contracts you should pay special attention to the restrictions imposed on a vendor by s. 42 and you should note that a restriction is also imposed by s. 125 affecting powers of attorney relating to land.

Under both these sections the vendor is unable to rescind if the purchaser insists on his rights, as undoubtedly he will.

I again call attention to these sections in order that the special stipulations which you may prefix to the General Conditions of 1925 should not be *ultra vires*.

Conveyances on sale.

Next as regards conveyances on sale.

We have been told by our critics that conveyances on sale are so simple under the existing law that it is quite impossible for us to improve on them. It is quite true that a conveyance by a vendor seised, in fee simple, to a purchaser who is to take absolutely, presents no difficulties under the existing law, but we must all of us have seen a great number of conveyances which, taking a lenient view, we must admit were complicated.

"*In fee simple.*"

It will be unnecessary, in future, to use the words "in fee simple," though in practice I think they will be used, first because it will make it clear that the implied covenants for title are to extend to the fee simple, and secondly to avoid any question of a contrary intention.

"*To the Use of.*"

By reason of the repeal of the Statute of Uses we shall also get rid of the words "To the Use of" in every *habendum*.

"*Indentures.*"

Thanks to the suggestion of my friend Mr. Edward Hamilton Benn, one of the Conveyancing Counsel to the Court, we shall also give up the use of that effete expression "Indenture" and call each deed by the name by which it is known in practice.

Covenants for title, etc.

The implied covenants for title, to which we have been accustomed since 1881, have been left alone, save in two respects, the covenant which used to be implied by a person who by way of mortgage conveyed leasehold property subject to a rent, has been made to apply also to the cognate case of a mortgage of freehold property subject to a rentcharge.

Assents.

In addition to that, covenants for title will also be implied in assents by personal representatives in like manner as if the assent had been a conveyance. As I have already mentioned, an assent after 1925 will, in fact, operate as a conveyance, but will not carry any stamp duty.

But you will find, and this will interest my friends in the North and in the West, that the usual covenants will be implied in conveyances subject to perpetual rentcharges and in particular in conveyances subject to an unapportioned part of a rentcharge.

Indemnities against rentcharges, etc.

Likewise the usual covenant for indemnity will be implied in a simple assignment of a lease; also the usual cross covenants will be implied where part of the land in a lease is assigned at an apportioned rent.

When I speak of conveyances or assignments at apportioned rents, I include the case of an assignment exonerated entirely from a rent, and also the case where the land conveyed or assigned is charged exclusively with the rent in exoneration of the other property.

In practice you will find that these implied covenants will enable you to shorten your conveyances to a very considerable extent, and we have, I understand, to thank the Attorney-General for his strenuous support in obtaining the adoption of this section by the present Government, as it did not form part of Lord Birkenhead's Act.

Remedies.

Besides these implied covenants you will find that the Law of Property Act (s. 190) provides the usual remedies in the case of non-payment of rent or breach of covenant.

"*Possession*" *passes.*

In consequence ot the repeal of the Statute of Uses, it has been necessary to provide (s. 51) that conveyances shall operate to pass the "possession." The result is the same as if the conveyance had been made by way of appointment under the Statute of Uses.

Reservations.

Formerly under that statute, as amended by the Conveyancing Act, we were able to reserve rentcharges, easements and other rights, accordingly we have had to provide something, which I think you will consider is simpler, in place of that device. It will now be possible to reserve legal estates, without the use of any technical words, either to the vendor or to any other person named in the reservation.

Such a reservation operates in the same way as a conveyance to pass the "possession."

Implied reservation.

I will refer you, for one moment, to s-s. (2) of s. 65 of the Law of Property Act. That is inserted to avoid any bad result arising from a mistake in conveyancing. You will have frequently noticed that a practice has grown up of conveying property subject to a right which is not in existence at the time of the conveyance. That is obviously bad drafting; but if it should occur in future such a provision will operate as a reservation.

Unintentional confirmation of leases.

This provision is not, perhaps, satisfactory in all respects, because in future we shall have to be very careful not to

confirm a lease or tenancy in regard to which a right of re-entry has accrued by conveying expressly subject to it. But we cannot have it both ways, and we had to choose the lesser of the two evils.

Your remedy, of course, will be to convey subject to leases and tenancies "so far only as they may be subsisting."

Presumption.

You will remember that no infant can take or hold a legal estate; it was thought that, in consequence of this provision, it would be necessary in all cases for a purchaser to insist on evidence that each person who was a party to a conveyance of a legal estate was of full age. In order to avoid this difficulty a new presumption has been created, namely, that the parties to deeds (s. 15) are of full age; hence, unless a purchaser has reason to suppose that any of the parties are infants, it will not be necessary for him to make an enquiry in regard to this matter.

Lunatics.

So far as lunatics and defectives are concerned, the Acts have not done much as regards conveyances, except to secure that in all cases the conveyance shall be made in their names by the committee or receiver.

Under certain statutes the committee or receiver conveyed in his own name, and in other cases he had to convey in the name of the lunatic or defective. This was unnecessarily confusing.

Further assurances.

Another result of the repeal of the Statute of Uses has been that the Act had to provide (s. 66) a new method of executing a further assurance for legally confirming past transactions which, by reason of some technicality, were invalid.

A very simple form of vesting deed is provided for this purpose by the Law of Property Act, and a form for this purpose is set out in the 5th Sched.

There is one warning I should give you in regard to this. These deeds of confirmation or further assurances cannot, under s. 66 of the Act, be made by persons in a fiduciary position, without an order of the court; but I think that in settlements and wills, in future we shall probably provide that this power may be exercised without the leave of the court.

Conveyance to self.

Under the old law a person was unable to convey to himself, and in order to get over this it was necessary to convey to a grantee to uses; this has now (s. 72) been rendered unnecessary, for it is expressly enacted that a person may convey or vest land in himself.

You will find plenty of examples of this in your precedent books. For instance, statutory owners, who are also personal representatives, will execute vesting assents in favour of themselves.

I know it has been suggested that a tenant in tail, when he disentails, should convey to himself. I do not approve of this suggestion; I think it is awkward and possibly dangerous. It would do no good for he can only, in such a deed, convey an equitable interest, and I think it is safer to keep within the four walls of the Fines and Recoveries Act.

Execution of deeds.

After 1925, it should be borne in mind that all deeds by individuals must be signed or marked, sealing alone will no longer be sufficient. In view of the advances made in our system of education, I think this is a matter which should not cause any difficulty in practice.

Powers of attorney.

Facilities have been given to corporations to execute instruments, not under seal, by their agents, to execute powers of attorney in the name of individuals by their agents, to execute instruments under powers of attorney granted by other corporations in the name of those corporations, and indeed, difficulties in regard to execution (s. 74) have, I hope, been met in a practical way.

Seeing that so many banks, insurance societies and other corporations, acting as trustees, are given powers of attorney, it seems important that difficulties of this sort should be removed. It is all the more important in consequence of the general principle that where a power of attorney, either express or conferred by statute, is given, the attorney should execute in the name of his principal. This is in accordance with the idea that each abstract of title should show conveyances from A to B, and from B to C, and so on, in place of a conveyance from A to B, followed by one from X to C.

I do not think any one was more wholeheartedly insistent on the need for this reform than one of your Presidents, the late Sir Walter Trower, who was appointed to act on Sir Leslie Scott's Committee.

Conveyances on sale.

Now, suppose the conveyance is not to be made to a person absolutely but on trust for sale. You will find that under the group of sections in the Law of Property Act, to which I have already referred (ss. 23-33), conveyances can take a very short form indeed, as the requisite powers to deal with the property have, for all general purposes, been conferred.

In some cases those powers, particularly in regard to raising money by way of mortgage, will, no doubt, be extended where the trustees are beneficial owners, such as partners; but even if they are not, I have already explained, that the Trustee Act will largely help you out of your difficulty.

Purchases with capital money.

Then we come to conveyances of land to be held in settlement.

Instead of being conveyed to the uses of a settlement the land, whether freehold or leasehold, will be conveyed to the tenant for life of full age or to the statutory owners. At this point I may perhaps, usefully explain rather more fully what is meant by "statutory owners."

"*Statutory owners.*"

First, it does not mean the limited class of owners who have the powers of a tenant for life; they are under the Settled Land Act treated as and included in the definition of "tenant for life." But it means the persons, who, when there is no tenant for life of full age, are to have the statutory powers. For instance during a minority if the land is vested in personal representatives they will have the powers; in other cases the Settled Land Act trustees will have the powers.

Supposing that there is no tenant for life at all, for instance in consequence of the existence of a discretionary trust, then the persons (if any) who under the settlement are given these powers expressly will have the powers and will be treated as the statutory owners.

If the settlement does not expressly provide for this case then the Settled Land Act trustees will have the powers.

Incidentally I may mention that this appears to secure that in no case where land is settled will there be any real difficulty in finding a person to make title.

Conveyances of land to be held in settlement.

Now, as I have said, these conveyances of freeholds and leaseholds, called Subsidiary Vesting Deeds, will be made to the tenant for life of full age or to the statutory owners. They will declare in that deed that they hold the land on the trusts of the settlement, whether created by deed or by will. The separate documents whatever they are which declare the trusts are called "trust instruments."

In addition, in such a conveyance, the persons who are the Settled Land Act trustees will be stated to be such. All capital money must be paid to them. If the tenant for life or any other person is given power to appoint new trustees, this will be mentioned.

Also if powers additional to those conferred by the Settled Land Act are given in regard to the settled land, these will be set out. These powers must be very few because the Settled Land Act gives such wide powers that it will be difficult to find many matters which are not covered by the Act. And in passing I may say that if the powers can be extended, for instance under a joint over-riding power of appointment, operating in equity, I think that this should be mentioned.

Let us make no mistake, only powers operating under the Settled Land Act and affecting the land have to be set out, not those relating to capital money nor powers to create family charges such as jointures and portions, these are family matters, they do not affect the public.

Subsidiary vesting deeds.

Where a vesting deed has already been executed it will be sufficient to give the particulars of that vesting deed in the subsidiary deed, because the principal vesting deed will contain all the particulars to which I have just referred.

The object of these provisions is to approximate the title of settled land, as regards a purchaser, to that of unsettled land.

We have for many years past been accustomed to keep the trusts of the proceeds of sale of land off the title to the land itself, and for that purpose we have generally had two instruments, namely a conveyance on trust for sale and the settlement of the proceeds. That principle has been adopted in regard to settled land. The vesting instrument will be the conveyance of the land containing either expressly or by reference the particulars to which I have referred, while the trust instrument will not come on the title.

Assents on trust for sale.

You may suggest that where a testator devises his land on trust for sale, this trust for sale will necessarily come on the title. This will not be the case if the assent is made after 1925.

All the land will vest in the personal representatives and they will, in writing, assent to its vesting in the persons named as trustees for sale upon trust for sale, and to hold the net proceeds upon the trusts declared by the will. So that, instead of abstracting wills, you will merely produce the probate and abstract the assent on trust for sale. The latter should contain any express power there may be to appoint new trustees.

The probate is not only material as evidence of the passing of the legal estate, but the endorsements thereon should show whether the personal representatives have disposed of any part of the land.

Abstracts of title to settled land.

Similarly, when you have to deal with settled land, you will abstract the vesting instrument whether it takes the form of a deed or a vesting assent by executors or administrators, and keep the trust instrument off the title; for on a death the personal representatives, who in this case will generally be the Settled Land Act trustees of the settlement, will execute an assent called a vesting assent, containing all the particulars to which I have referred.

Counsel's certificate.

I ought to warn you that under the Settled Land Act there are occasions when, independently of an express condition, a purchaser will for certain purposes investigate the equities, to see whether or not the vesting instrument has stated that the land is vested in the right person, has nominated the proper Settled Land Act trustees, and that a proper title has been made to the land. This applies in particular to settlements made before 1926, but if the practice is followed, which is advocated in the General Conditions of 1925, of obtaining a certificate of title from counsel when these special cases are dealt with, this investigation will be dispensed with. I should not be surprised, if, in order to avoid missing the cases where a certificate is required, it became a general practice to take one whenever counsel are instructed to settle a vesting instrument.

Mortgages.

I think I am now at liberty to deal with the question of mortgages.

Here no one would accuse us of not having simplified the form.

In the first place, the Law of Property Act, as I think I have already mentioned, gets over the difficulties that were originally inherent to mortgages by demise or sub-demise. Having put these in a satisfactory position, my friend, Mr. Benn, said, why not go a step further and authorise a legal charge which will have the same effect?

This we have done, or done our best to do. You will find a form of it in the 5th Sched., and solicitors are protected if they use it. The simplicity of this form appears to appeal to everyone, it will make your draft easier to frame in many directions, and as a consequence, everyone has been endeavouring to ascertain some fly in the ointment.

Legal charges.

At present, I think, the difficulties, if they are difficulties, which have been suggested are that, according to the actual form in the schedule, it is not clear when the legal right of redemption ceases. This is merely a matter of drafting, and of course, can be rectified in practice. This criticism does not, however, apply to the statutory mortgages, or rather statutory legal charges which take the place of the statutory mortgages under the Conveyancing Act, 1881, for, from the section dealing with these, it is quite clear when the legal right of redemption, as opposed to the equitable right, ceases.

Sub-mortgages.

The second objection is that, inasmuch as the mortgagee does not take any term or estate, when he comes to sub-mortgage, he will have to transfer his charge to the first sub-mortgagee. If he desires to create a second sub-mortgage, he will only have an equity left. That is quite true, but seeing that the second sub-mortgagee will in any case have to protect himself by registering a land charge, the objection appears to me to be of no importance whatever.

Relief against forfeiture.

Another objection taken is that, although the mortgagee is to be treated as if he had a legal sub-term, where leaseholds are mortgaged, still when the head lessor is claiming to re-enter for breach of covenant, the court will refuse relief to the mortgagee because it can only vest a term in him for an interest not longer than the sub-term he held. This bogey does not frighten me, my impression is that the court will make short work of it, if the point is ever raised.

Attornment clause.

The last objection is that as the mortgagee will not actually have a legal term, though the charge is one of the interests expressly stated as being a legal estate and an express power is given to take possession, yet this is not sufficient to enable the mortgagee to take advantage of an attornment clause and obtain possession in a summary way. This does not appear to me in the least convincing.

But assuming that the objections are valid, and that is a wholly unauthorised assumption, I do not mind telling you that I am going to adopt these charges in practice and I have every reason to believe that, as a rule, they will be adopted.

As trustees are expressly authorised to invest on these charges, if anything is found to be wrong with them, it is inconceivable that Parliament should not rectify the trouble.

We have a few nervous practitioners among us who cannot see the wood for the trees. It is on this account that we are sometimes considered well meaning but contemptible.

Fortunately for the public the courts, for long past, have set their faces against super-technicalities, and we ought to trust them to see us through.

You will remember as regards mortgages, I am not speaking of mortgages by deposit, subsisting on the 1st January, 1926, that they are all converted into mortgages by demise or by sub-demise.

Conversion into legal mortgages.

But each of these mortgagees, whether or not he is in a fiduciary position, will be able to convert his term mortgage into a charge by way of legal mortgage.

I may mention in passing that the only technical words to be used in these new legal charges are the words "charge by way of legal mortgage."

Realisation.

You will have noticed that a legal chargee just as much as a mortgagee by demise or sub-demise has power to convey the fee simple on a sale or, in the case of a leasehold mortgage, to convey the head term on a sale. He is also in the same position in regard to foreclosure as a mortgagee by demise or sub-demise, that is to say he can acquire the fee simple or the head term, and he is also in the same position in regard to acquiring title under the Limitation Acts; that is to say when the statutes have run in his favour he will execute a vesting deed declaring that the fee simple, or the head term, is vested in him free from any right of redemption.

Transfers of mortgages.

I can next deal with transfers of mortgages.

Here we have adopted the scheme of the Conveyancing Act of 1881 formerly applicable to transfers of statutory mortgages.

A deed merely (s. 114) purporting to transfer the mortgage or the benefit of it will do all that an ordinary transfer does.

This form of transfer may be used whether the mortgage is made before or after 1st January next.

Reconveyances.

In regard to reconveyances of mortgages. These can be effected by endorsed receipts, but care must be taken that the requirements of s. 115 of the Law of Property Act are complied with; the receipt must state the name of the person who pays the money and it must be executed by a mortgagee who is legally entitled to give a receipt for the money.

If by chance the money is paid by a person who is not entitled to the immediate equity of redemption the receipt will operate as a transfer, unless it is otherwise provided, or unless the mortgage debt is paid off out of money properly applicable for the discharge thereof.

This section (s. 115) does not allow a mortgagor to keep alive a mortgage debt to the prejudice of his subsequent incumbrancers, but under another provision in the Act it is clear that a mortgage can be kept alive by a tenant for life or limited owner where he pays off the debt out of his own money instead of out of trust money.

Incidentally this section (s. 115) gets over the difficulties which have occurred in the past in regard to reconveyances of building and friendly society mortgages carried out by an endorsed receipt.

You will remember that there has always been a difficulty in ascertaining who had the best right to the equity of redemption.

These difficulties will not occur under the section in question, which is made applicable to the discharge of building and friendly society mortgages, but in that case no stamp duty is payable in respect of the receipt, if, under the statute law relating to those societies, an endorsed receipt would have been free from stamp duty.

You are aware, no doubt, that, apart from an express provision in the mortgage, a building society's mortgage is incapable of being transferred.

Well, in cases of that nature, it is, I think, fairly obvious that an endorsed receipt can only operate as a discharge.

I have mentioned the fact that when the mortgage is discharged, the mortgage term is made to cease; it cannot be kept alive for the purposes of protecting titles. This, of course, does not apply where the mortgage is either expressly or impliedly transferred.

Conveyances of equitable interests.

I will now trouble you for a moment to consider conveyances of equitable interests.

Notices to trustees.

The point to note in regard to these dealings, which, so far as form is concerned, will not be appreciably altered, is that notices of these dealings must be given in writing to the estate owner trustee, and in the case of settled land, to the Settled Land Act trustees. In other words, the rule in *Dearle* v. *Hall* has been made applicable to the case of interests arising under realty settlements, whether created by deed or by will. You will remember that the rule applied for fixing the priorities of competing interests under dealings with the proceeds of sale of land held on trust for sale as well as with personal estate.

This is another example of assimilation.

But you will bear in mind that there is a second object in serving these notices, namely, to prevent the property being distributed by the trustees without having had notice of the claim.

Notices to trust corporations.

My friend, Mr. Alfred Topham, K.C., has also invented an expedient for giving these notices to a trust corporation nominated for the purposes of keeping a register. I am not sure that this expedient will be widely adopted. It may be useful in cases where the dealings are very numerous, but wherever it is used, arrangements should, of course, be made under which the trust corporation will furnish particulars of the notices to the trustees from time to time, for this may enable them to assist their beneficiaries when they find that they are dealing with reversionary interests.

Notice to Land Registrar.

It should be specially noted that where registered land is concerned, the Land Registrar will take the place of a trust corporation wherever a life or reversionary interest is dealt with. In such cases a priority caution or inhibition must be entered in the Minor Interests Index. This does not affect the powers of disposition of the registered proprietor.

Creation of life annuities inter vivos.

Though I have indicated that, apart from "trust instruments," no express forms have been prescribed for the creation or transfer of equitable interests, that remark must not be taken as free from exceptions. For transactions will not always be carried out quite in the same way. For instance, if, after 1925, an annuity for life is to be charged on land, the obvious way of doing this is by way of a vesting instrument and a trust instrument. By the vesting instrument the owner of the land will declare that he holds it on the trusts of the trust instrument of even date, and the vesting instrument will, with the consent of the annuitant, nominate the Settled Land Act trustees.

Then by the trust instrument the requisite trusts will be declared for providing for the annuity and any other equitable interests desired.

My remarks are not confined to equitable interests to be granted to members of the settlor's family, but they extend to a case where the life annuity or other equitable interest is to be created in favour of a purchaser. The reason is this, supposing that the old practice were adopted and the land were charged in equity with the annuity or other equitable interest in question, the very next day the grantor could execute either a conveyance on trust for sale *ad hoc* or a settlement *ad hoc*.

It follows that, to avoid duplicating the process, it is best to carry out the transaction in the proper way in the first instance.

If it is not so carried out, the annuitant or other owner of the equitable interest, would have to register a land charge to protect the equity, but, notwithstanding such registration, it could be ultimately overreached by means of a special settlement or a special trust for sale.

Leaseholds.

Next let us consider for a few moments the alterations made in the law respecting leaseholds, for these bear on the instruments we shall have to prepare.

You will remember that after 1925, it will not be possible to create a lease for lives at a rent or in consideration of a fine. Such a lease would operate to create a term of ninety years, terminable by notice on either side on the death of the *cestui que vie*.

Again, a covenant to renew a lease for more than sixty years from the determination of the lease, is made void. In addition to that, a lease at a rent or in consideration of a fine must be made to take effect in possession within twenty-one years from the date of the lease, otherwise it will be void, and a contract to create a term to take effect more than twenty-one years from the date of the contract is similarly void.

Thus, leases of this nature, as well as leases perpetually renewable which, as you will remember, have been abolished, will no longer be capable of being created.

These remarks do not apply to terms created by a settlement. There is no objection to a portions term or a term for indemnity purposes being created in equity to take effect from a future date or for lives. They do not come on the title, they are kept behind the curtain, and legal effect will be given to them only at the proper time, if occasion requires.

I have also called attention to the fact that a legal term may be created to take effect in reversion expectant on the longer term, that is to say, it will create a reversion to the extent of the shorter term.

Form of leases.

But, though, subject to these remarks and to the fact that under s. 149, reversionary leases will take effect from the date fixed for the commencement of the term without entry, so that the doctrine of *interesse termini* is no longer required, the actual form of the grant of leases as between landlord and tenant is not affected by the Acts; assignments thereof, of course, are to some extent affected, and where a lease is granted to a tenant for life, it must comply with the requirements relating to subsidiary vesting deeds.

Subsidiary vesting deeds.

I have already pointed out that when the leasehold interest is acquired for the purposes of settled land, it will be conveyed to the tenant for life of full age or statutory owners, by means of a subsidiary vesting deed; and I should also mention that when a lease is granted *de novo* to a tenant for life this will also be treated as a subsidiary vesting deed, and the particulars required in such cases can either be contained in the lease itself or may be endorsed thereon.

Remember that interests in land should be vested in the tenant for life, not in the Settled Land Act trustees.

Trusts for sale.

If a leasehold interest is acquired by trustees for sale then of course, under s. 28 of the Law of Property Act, the assignment must be made to them on trust for sale.

In passing I may mention that the old practice, which I am glad to say has died out to a very large extent during the last few years, of conveying land upon the trusts of an instrument creating the trust for sale will no longer be available. In every case when land is to be held on trust for sale it must be so expressly conveyed or so vested.

Conveyances by mortgagees.

I have dealt to some extent in a previous Lecture, with the effect of conveyances by mortgagees under their power of sale, but it may be convenient to repeat here that mortgagees, I am speaking of legal mortgagees, of freeholds will be able, whether their mortgages are term mortgages or by way of legal charge, to convey the fee simple to a purchaser.

If the conveyance is made by a second or subsequent mortgagee it will of course take effect subject to the mortgage terms or legal charges of prior mortgagees. The purchaser will stand in the shoes of the original mortgagor, save that mortgages subsequent to that under which title has been made will be wiped off the title.

Similarly when a mortgagee of leaseholds sells he will convey the head term and the mortgage term will merge.

Likewise all mortgage terms created subject to the mortgage under which title has been made will be extinguished but the head term acquired by the purchaser will be subject to any legal mortgages, including legal charges, which have priority to the mortgage under which title has been made.

There is one exception in regard to the conveyance of the head term by a mortgagee of leaseholds, and that is where the mortgage only contains part of the land demised and the rent (if any) has not been apportioned. In that case you will find that the practice will be, whether the mortgage is taken by sub-demise or by a legal charge, to insert therein a power of attorney exercisable by the mortgagee and the persons deriving title under him to convey the head term.

I should mention that s. 42 of the Law of Property Act, which I have called "the purchaser's charter," enables a mortgagee, who can only convey his mortgage term, to do so, but if he can convey the fee simple or if he can convey the head term, he is bound to do so save where the court gives leave to convey the mortgage term.

I have little doubt that the court will not give that leave save in cases where it is expedient that the head term should remain vested in one person, title being made to parts of the property by way of sub-demise, when the head term will ultimately be conveyed to the last purchaser subject to and with the benefit of the sub-demises granted for the purposes of making title.

Settlements.

My next heading is concerned with settlements. I have anticipated this to a large extent already, and I think it will be sufficient for you to bear in mind that, as in the case of settlements by way of trust for sale, so in the case of strict settlements, whether made by deed or by will, there will always be at least two instruments, namely the vesting instrument which may take the form of a vesting assent when made by personal representatives, and the trust instrument declaring the trusts of the land, and which will also settle any personal estate in the shape of heirlooms and investments which are to be held with the land.

Heirlooms.

As regards heirlooms, after 1925 a settlement thereof will be exceedingly simple in consequence of the permission to entail them in exactly the same way as land is entailed.

Conveyance subject to family charges.

Before I leave the subject of settlements may I warn you again against purporting to convey land subject to, but indemnified against, a family charge. No purchaser can be properly advised to accept such a title. The reason is that he will become a tenant for life as being an owner of the fee simple subject to a family charge; accordingly he will be unable to make a title to the land until a vesting instrument has been made in which the proper Settled Land Act trustees have been nominated.

A question has been much discussed in the legal papers lately as to whether or not a purchaser, before 1926, who has

taken the land subject to family charges will be able to make a title without the aid of a vesting instrument.

I must confess that on the strict construction of the Settled Land Act, as I understand it, I think that is a sound contention; but whether the courts will get out of the difficulty in another way I should not like to predict.

At any rate, we must not rely on that; but a purchaser in such a position should either obtain evidence of the discharge of the family charge in question, or obtain a release of his land therefrom, before he attempts to make title. Failing this, he may have to go to the Settled Land Act trustees of his vendor to ask them to execute a vesting instrument.

If the family charges are amply secured, I have no doubt that complacent trustees would, after a sale, hand over the proceeds to him. On the other hand, if there were any question as to the sufficiency of the security they would, at any rate, require a substantial indemnity before they took this course.

I think it is admitted on all sides that if a purchaser after the 1st January next, acquires a legal estate in land, subject to a family charge, he will necessarily be in the position of a tenant for life, and have to make title under the Settled Land Act; and I understand, also, that it is admitted, that if the purchaser acquires the legal estate before 1926, and then makes a re-settlement, it is clear that trustees of a compound settlement must act.

Compound settlements.

I should remind you that, after 1925, all titles to settled land will be made under a compound settlement, if such a settlement exists. The reason being that in every case the best title has to be made.

This is not so alarming as at first sight appears, because under the Act the Settled Land Act trustees of the first instrument will be the trustees of that instrument and of all instruments subsequent in date or operation. On this account, as I have already said, it will seldom be necessary to apply to the court for the appointment of Settled Land Act trustees of a compound settlement.

You will all of you, have noticed that under Pt. II of the Settled Land Act, the powers of a tenant for life have been enlarged to a very great extent, but not content with that s. 64 gives the court power to authorise a tenant for life to carry out almost any transaction.

Wills and settlements.

The effect of giving such wide powers to the tenant for life, and as a consequence, also to trustees for sale and to personal representatives, will be that settlements and wills must be very much shortened.

Further powers are given by the Trustee Act, 1925. These will similarly have the effect of reducing the length of trust documents; and I should point out that in the Trustee Act the definition of a trustee, where the context admits, is now made to extend to a personal representative.

Personal representatives.

I think some learned writer has said that we have overwhelmed personal representatives with powers; that may be so, but it is in a good cause, we are getting back to the old principle that a personal representative really carried on the life of the testator or intestate. In other words, provided he acts as a reasonable person, he ought to be able to do what the testator or intestate could have done personally.

Jurisdiction of the court.

Independently of these express powers, by s. 57 of the Trustee Act, the court is given power to authorise almost any transaction in reference to a trust, but this section does not relate to settled land, because a similar power, as I have mentioned, has been given to the court for that purpose in the Settled Land Act.

Definition of "trustees."

In trust instruments after 1925, it will never be necessary to do more than define the trustees as "trustees." It will not be necessary, for instance, to say that the expression "trustee" includes the survivors or survivor of them, or the executors or administrators of such survivor or other the trustees or trustee for the time being of the trust instrument for all that is now done for you by the Trustee Act.

To some extent this was the old law, but until copyholds had been converted into freeholds, it was not possible to make this principle universally applicable.

Bearer securities.

I have noticed that some correspondence has taken place in the papers in connexion with the power for trustees to invest in bearer securities; notwithstanding that this is hedged about by the proper provision requiring the securities to be lodged for safe custody with a banker or banking company. The reason why bearer securities were so authorised, subject, of course, to any express provision to the contrary in the instrument creating the trust, is because so much unnecessary *ad valorem* stamp duty becomes payable, under the Finance (1909-10) Act, where voluntary transfers are concerned.

This power was not inserted, as apparently has been supposed, because the stamp on the actual transfer of the security on a sale was avoided, for this is generally represented by the enhanced value of bearer securities over their brothers and sisters of the same class, which are not made payable to bearer.

Number of trustees.

Before leaving the question of trusts, I should like especially to call your attention to the fact that after 1925, not more than four Settled Land Act trustees will be allowed, save where more than four were acting before 1st January, and that similarly nor more than four trustees for sale will be allowed to act unless they were appointed before that date.

Charity trustees.

These restrictions, however, do not apply to charity land, for unfortunately, it has become a practice in some villages, to appoint nearly every resident, and that fine practice could not, of course, be interfered with.

Appointments of new trustees.

Then again, you will carefully notice that the appointment of Settled Land Act trustees of settlements will be carried out first by an appointment of Settled Land Act trustees of the trust instrument; this will not come on the title to the land at all. Then there will be a separate short deed stating who are for the time being the Settled Land Act trustees, that will go with the vesting instrument, and will be part of the title to the legal estate. In addition to that, notice of the appointments will from time to time be endorsed on the effective vesting instrument.

Similar provision is made in regard to trusts for sale. Suppose, for instance, that a testator devises his land on trust for sale, and the executors assent to its vesting in the trustees, probably themselves, on trust for sale, then when new trustees have to be appointed, there will first be an appointment of trustees for the purposes of the will. Secondly, there will be a separate deed appointing trustees of the assent on trust for sale; a purchaser will be concerned with the latter and not with the former. At the same time a memorandum of the appointment will again be endorsed on the assent or other conveyance on trust for sale.

That is all designed to make the curtain as secure as possible.

Infants' trustees.

A special power is given by s. 42 of the Administration of Estates Act for the personal representatives to appoint trustees of infants' property. This is contained in that Act, rather than in the Trustee Act, because it is primarily designed to assist personal representatives to wind up an estate.

Now, I think, the time has come for gentlemen to let me have any questions in writing they think fit on this lecture.

(Transcript of the Shorthand Notes of The Solicitors' Law Stationery Society, Limited, 104-7 Fetter Lane, E.C.4.)

Solicitors' Managing Clerks' Association.

LAW OF PROPERTY ACTS LECTURE

(Seventh of the Series),

By Mr. A. F. TOPHAM, K.C.,

On Wednesday, 25th November, 1925.

[*Verbatim Report.*]

Mr. Topham: Mr. Chairman and gentlemen, in regard to the subject of mortgages we come now to the new rules as to priorities. The alterations which are made in that subject are very important and far reaching. They were made for the most part after the 1922 Act was passed. For the purposes of consolidation, and making the whole of the legislation fit in, it was found to be necessary to make some very important changes with regard to the priority of mortgages. So that any of you who were sufficiently eager to read the 1922 Act, or who were sufficiently unfortunate to purchase any books dealing with that Act, will find that that knowledge or those books are somewhat misleading and that part of it, at any rate, should be scrapped.

The changes may be divided into two classes, first of all, mortgages which affect a legal estate, and secondly, mortgages which only concern equitable interests. That is a little confusing in one way, because it is not a distinction between legal mortgages and equitable mortgages; but on the one side you get all mortgages, whether legal or equitable, which affect a legal estate. It is rather a curious conception. What it really means is this: to take a case of a purchaser who is buying a fee simple, he has to be concerned in future almost entirely with ascertaining what has happened to the legal estate. He is buying a fee simple, and he simply gets documents showing what has happened to the fee simple. There may have been an equitable charge made affecting the fee simple. Then there comes under another head a class of mortgages which affect an equitable interest in land, including such things as mortgages of life interests which will be equitable interests in future and reversions and similar interests which arise under settlements or trusts for sale. The great difference between the two is this from a working point of view. Where these charges affect those interests they would be capable of being overridden when the estate owner sells the land. When the trustees for sale sell, of course they override, as we have seen, all equitable interests arising and affecting the proceeds of sale, and they similarly override any charges which would affect interests arising under the proceeds of sale. That, then, is the broad distinction between the two classes.

One principle which one can bear in mind throughout these changes is this; that priorities which exist at the present day (that is to say priorities existing up to the 31st December of this year) will not be affected by the change. It is only with regard to mortgages created after that date, and priorities which they acquire by anything which happens after that date, that these new rules apply.

Now, dealing with mortgages affecting the legal estate, to make it simple we will confine our attention to the case of a mortgage of a fee simple. Now, of course, you know very well the old rule was this, that a man who had a legal mortgage of a fee simple was in a very strong position. Where equities are equal, the law prevails, and unless the man who has the legal estate in fee simple has had notice of some prior equitable charge, or ought to be postponed by reason of his negligence in parting with the title deeds and enabling a fraud to be committed—or for some such ground—the man who has the legal estate has the priority, and everything depends on that. That will, to a large extent, be altered under the new rule. It is provided by s. 97 of the Law of Property Act," that every mortgage affecting a legal estate in land made after the commencement of the Act whether legal or equitable (not being a mortgage protected by the deposit of documents relating to the legal estate affected) shall rank according to its date of registration as a land charge," that is to say that priority of registration takes the place of the old rules of priority depending on the legal estate.

Now, that was necessitated as soon as one appreciates this: that after the new Act comes into force, the second, third, and fourth and other subsequent mortgages will all be legal mortgages; and, as I pointed out to you before, that would be very awkward for the purchaser, who might quite well be buying without any notice or means of notice of the second or third or fourth mortgages, and yet they would be legal mortgages and so would affect him, whether he had notice or not. It was part of the arrangement to protect a purchaser in that way that second and third mortgages have to be registered as land charges. When you have once got them registered, then the simple way to deal with all questions of priorities is to say that priority will depend on the date of registration. Therefore, that has been done. That, as I told you, was done after the 1922 Act, and in fact it was done at rather a late stage. These provisions about priorities got put into a section together with something else. What is now s. 96 contains some provisions about inspection of title deeds, and then this priority arrangement was put on at the end, and so in the Bill you will find that cl. 96 had a side-note which explained that these things were all put together, and, curiously enough, you will still find in the Act (it may puzzle you if you do not know this explanation) a side-note to s. 96, "Regulations respecting inspection, production and delivery of documents, and priorities." If you look at the section you find nothing about priorities. When you come to s. 97 you get a proper side-note relating to priorities and then you find a curious—mistake, it really is—in the Acts as they were first printed relating to s. 97, saying this: "This sub-section does not apply to the Middlesex and Yorkshire Registries," or to registered titles, putting it shortly. It was evidently done somewhat in a hurry, and it arose in this way: having got the two things put together in one section, it was pointed out that this very big change as regards priorities, which was not in the 1922 Act, would be only in a sub-section which was dealing with other matters, and it might be rather a trap to let it go through in that form. So, rather at the last moment, this priority section was made a section by itself. That explains how you find, at any rate in the earlier prints of the Act, that it refers to "this sub-section," meaning, of course, "this section." That mistake has been put right in rather a curious way. I doubt whether it has ever been done before. When these statutes were printed in the ordinary law reports edition they were printed first with the word "sub-section." That was corrected by certain portions of them being reprinted, and you will find a note attached to them in the third volume of the statutes for 1925 which says that you must substitute them for the other pages. There seems to have been something like an amendment of an Act of Parliament by a printers' slip. Some people will say that is very immoral and unconstitutional, but fortunately it does not matter a little bit, because the changes which have been made are obvious changes which arose through a slip in reorganizing the sections. So if you find that these sections are a little curious with regard to their side-notes and the way the "sub-section" is referred to, you will see that is put right, as I have said, in the slip and nothing really turns on it.

So you see that that section refers to priorities at the date of registration as a land charge. To see what that means one has to refer back again to the provisions of the Land Charges Act, which I have dealt with, in which, you remember, under Class C, Land Charges, you could register certain things which included legal mortgages where there was no deposit of documents of title—which are called puisne mortgages—limited owner's charges and general equitable charges.

I want you particularly to notice the definition of a general equitable charge. Having described certain charges, it says, "any other equitable charge which is not secured by the deposit of title deeds and does not arise or affect an interest arising under a settlement or trust for sale." Now that helps one to realize, as I have said, the meaning of mortgages affecting a legal estate. Charges which only arise under a settlement, or affect an interest arising under a settlement, do not come under that provision; they need not be registered, because they do not affect a legal estate. In other words, as a purchaser is only concerned with the legal estate and these charges on interests arising under settlements and trusts for sale can be overridden by the vendor, a purchaser is not concerned with them, and, therefore, it is quite wrong to put them on a register which a purchaser is bound to search. The result is, then, that if you get an equitable charge created under the powers of a settlement—that is something which can be overridden—that would not be registered, because it arises under a settlement; or, again, if you have a mortgage of a life interest or a reversion, that will not be registered, because it affects an interest arising under a settlement. The result is, then, that referring only to mortgages which affect a legal estate, they rank according to date of registration, at any rate where the title deeds are not handed over, and whether those mortgages are legal or equitable. There is no distinction drawn between legal or equitable mortgages with regard to priority in future, because, whether legal or equitable, they rank according to their date of registration. That is a very great change and it upsets the old notion of the legal estate being so extremely important. In fact, the legal estate loses very much of its importance, but not all its importance, because you notice that the registration and the priorities with regard to registration only apply as between mortgages which are registered and as regards legal mortgages which are not protected by the possession of title deeds. So you may have priority questions arising as between an equitable mortgage—we will say by the deposit of title deeds—and a legal mortgage without any deposit.

There is a case that happened some little time ago—(*Grierson* v. *National Provincial Bank*, 1913, 2 Chancery) which showed that it was possible that a legal mortgage might get priority over an equitable mortgage by deposit of title deeds. In a case of that kind, I think you might still have a priority given by the possession of the legal estate although there was no registration. This is more or less the case; a borrower deposited his title deeds with a bank; he then made a legal mortgage—let us assume that that takes place—the legal mortgage is not registered; the mortgagee asks where the title deeds are, and he is told, "I have deposited them with my bank to secure an overdraft." It is limited to so much. He is prepared to take his legal mortgage, subject to that liability to the bank. Subsequently, the mortgagor pays off that bank, and, without saying anything to the mortgagee, at a subsequent date he deposits his title deeds with another bank. So that the mortgage by deposit of the deeds is equitable and is subsequent in date to the legal mortgage which has been made. Since, in the circumstances, the legal mortgagee was not guilty of any negligence, his legal estate protects him and he gets priority over the subsequent mortgagee by deposit of title deeds, namely, the second bank.

Now that may be complicated in the future in this way. Supposing all that happens next year, and you add to it this fact that after depositing those title deeds with the second bank the mortgagor makes a second mortgage to a second mortgagee who goes and registers his mortgage, he will have a legal mortgage by a term and he registers that as a land charge. Now you get this curious position, as it seems to me, that as between the first mortgagee who did not register, and the second mortgagee who did, the second mortgagee would get priority over the first; but it may be that the first mortgagee would still have priority over the bank who had the title deeds. It would be rather a muddle, and, fortunately, it is very easy to prevent your clients getting into muddles of that kind, or getting yourselves into them. I rather like to frighten you with these difficulties and then show you a simple way out. The simple way is, wherever you take a mortgage and do not get the title deeds you register it as a land charge, and then your priority is secured. I give you that instance. It is a little complicated, perhaps, but I think it is important to realize that, although the effect of having the legal estate is very much diminished, there may still be cases where it is important to have a legal estate.

Now, as against these possible difficulties that may arise. (I have had to go rather out of the way to find a case where a difficulty may arise—a rare state of affairs as I think I put to you.) These new rules make the position of a second or third mortgagee very much better than it was before. The rule at the present day is this, that where you have got a lot of different mortgages—second, third and fourth mortgages—they are all equitable charges; they rank in priority of date it there has been no negligence or no notice, and the great drawback to a second mortgage is that it is an equitable mortgage. You cannot tell how many mortgages the mortgagor has already made and not disclosed. There is no possible way of finding out. That is why a second mortgage of land is such a very bad security and you generally expect to have to pay a very high rate of interest for it, and, in addition, there is the great risk at the present time that some subsequent equitable mortgagee may acquire a right to tack as against you, even if you are in front of him in point of time. But, as we will see, the tacking provisions are very much changed, and there again the importance of the legal estate is very much diminished. But, I think it is fairly obvious that the new rule as to priorities depending on date of registration, though it may be a little inconvenient in some ways, will give second and third mortgagees a very much better security. If you are acting for a person who is going to lend money, and he knows there is a first mortgage, and he is going to take a second mortgage, he will get a legal estate because he will have a term—not that I think that is going to make a very great difference. He will know that the title deeds are in the possession of somebody else, and he would naturally make enquiries before he advances his money, if he is careful, and find out how much is due to the first mortgagee and see whether that mortgage includes further advances or not. He would then search the register and see whether any puisne mortgages have been registered, or other charges registered against the land, and if he finds there is none he is pretty safe in granting a further advance if the property is sufficient to cover it, provided he promptly registers his mortgage as a puisne mortage. I think we shall find in practice that these rules as to priorities of mortgage affecting a legal estate are really a very great improvement.

Now, coming to mortgages of equitable interests, such as life estates and settlements arising under trusts and so on, all estates other than the fee simple and the term of years are turned into equitable interests in the future. That will affect a fairly large class of mortgages. To carry out this doctrine of assimilation of the law of real and personal property, the framers of the Consolidation Acts (because it had not been dealt with before) had to make up their minds which rule they would adopt. You have the rule relating to real property. Whether the mortgages were legal or equitable or whether the legal or equitable estate has been mortgaged, the rule is that the first in time prevails unless somebody can get in the legal estate from a prior mortgagee and tack—a very extraordinary and illogical kind of rule and very unsatisfactory altogether, because you have no means of telling what mortgages have already been made on that equitable interest. Even if you think that a good way of protecting yourself will be to give notice to the first mortgagee that you have a second mortgage, or to give notice to the

trustees of the settlement that the life or the reversionary interest in this real estate has been mortgaged, it does not protect you in the least, because there may be other mortgagees who have not given notice. But in the case of realty they are not postponed, because of the fact that they have not given notice. That is the rule which was applied to mortgages of equitable interests in land—realty.

With regard to personalty—reversions arising under personalty settlements—there, there is an entirely different rule, which is called the rule in *Durle* v. *Hall*. The rule there (other things being equal) is that the person has priority who first gives notice to the trustees of the settlement—unless the money is in court, in which case the priority may depend upon stop orders. But in the ordinary way a person lending money on reversionary and other interests under a personalty settlement will give notice to the trustees of the settlement and thus get his priority over anybody who has not yet given notice. That is not an entirely satisfactory rule, because sometimes the trustees forget to hand the notices on, and sometimes when enquiries are made they do not answer them truthtully—not by intention, but by accident—and it is not altogether satisfactory, but it is a working rule which is and has been acted on for years. A large number of transactions, of course, take place in mortgages of reversionary interests and the rule on the whole works fairly well.

The result was that in contrasting these two rules it was decided that for the purpose of assimilation the rule as to the personalty was the better one. Consequently, the rule in *Durle* v. *Hall*, which makes priority of such mortgages depend on the date of the notice to the trustees, has to be adopted as from the 1st January next, and mortgages which are equitable interests on land—that is to say, mortgages affecting an equitable interest. That is done by s. 137, standing rather far away from the other sections in the Act. It says this—I have twisted it round rather in another way because I think it is a little clearer—"As respects dealings with equitable interests in land and capital money the law to apply will be the law applicable to equitable things in action"—that is the new phrase for "choses in action"—"regulating the priority of competing interests therein." That is rather a long way of saying that the rule in *Durle* v. *Hall* shall apply to mortgages or dealings with equitable interests in land and capital money. That has to be applied in some little detail to interests in land, and it is applied in this way: where the interest which is dealt with and mortgaged is an interest in settled land (such as a life estate and the remainder arising under a settlement) notice is given to the trustees of the settlement. Where the interest which is dealt with or mortgaged is an interest arising under a trust for sale—that is to say, an interest in the land until sale or the proceeds of sale after the sale—then the trustees for sale are the people to whom notice must be given. Now, there will be very few cases, I take it, at least not very many, which those two cases will not cover; but in case there are cases where there are no trustees, no settlement or no trust for sale, then notice is to be given to the estate owner. It is always pretty obvious under the new system who is the estate owner—that is to say, who has got the legal estate, and notice must be given to him. The new rule does not apply at all, any more than the rule in *Durle* v. *Hall* did, where capital money representing land is in court. There the ordinary rule as to stop orders will still apply.

A change, however, is made with regard to the rule in *Durle* v. *Hall* as to both real and personal property, and any notice given after the Act as to either class of property must be in writing. Of course, most notices were given in writing but that was not an absolutely hard and fast rule. The result then is this, that in future supposing a client is lending money on the mortgage of a life interest—in the old days he took an assignment of the life interest and he got a legal estate in the life interest and that was sufficient to protect him—the life interest will only be an equitable interest, and, therefore, a mortgage of that will come under this new rule. The consequence is that it would be advisable, and really necessary, to give notice in writing immediately to the trustees of the settlement. There are other reasons for doing that with regard to a mortgage of the life interest, but, in any case, whether it is a life interest or a reversionary interest which is being mortgaged, you will not get the legal estate, and you must protect yourself, therefore, by giving notice to the trustees of the settlement, or if there are none, of course to the estate owner. In the ordinary way you will probably find there are trustees to whom notice can be given. The notice, remember, must be in writing, but, of course, you always would do that in the ordinary way.

On the top of all that, there are some rather elaborate provisions providing for cases where there are no trustees, or, for some reason, notice cannot be given to them or where there is no document creating the trust. Now, those are cases which no doubt will arise very seldom, but there are rather long provisions dealing with it and they make the whole thing look very complicated. But fortunately for the most part you will not be concerned with these at all, except where the ordinary notice to trustees is unworkable. You have then to look at what you can do. Supposing there are no trustees or for some other reason notice cannot be given, a purchaser—which for this purpose includes an intending mortgagee—can require a memorandum to be endorsed on the trust instrument; that is to say he can have a memorandum of his charge endorsed on the trust instrument—not the vesting deed, remember, that is not to be affected at all with these charges on the equitable interest. He can also require that that instrument should be produced to him to see that notice of the charge has been properly endorsed upon it. The endorsement gives the same priority as a notice given to trustees.

Now, a good deal of objection has been made in regard to that. It is said "Oh you will be getting your trust instruments smothered all over with notices of charges by the different people charging their interests under the settlement. First of all you must remember that this provision for endorsing the notices on the deeds only applies where there are no trustees; so it will not frequently arise. Then it is said: "Surely it will be an awful nuisance for trustees? You may have a very complicated settlement with a lot of different people having different interests, and if they are rather an extravagant family they may be mortgaging all their interests all over the place, and there will be a tremendous number of notices given to the trustees." That criticism would apply to the present working of the rule in *Durle* v. *Hall*, and I do not think as a rule trustees are very much worried by it. But to meet these captious objectors a further section has been put in which enables the trustees, if they like, or the settlor when drawing up his instrument, to appoint a trust corporation to whom notices may be given instead of their being given to the trustees. There are rather elaborate provisions protecting everybody from anything going wrong by appointing this corporation, but roughly speaking, the advantage of it is that a trust corporation will be entitled to charge a prescribed fee—the fee being regulated by rule—and in consideration of receiving that fee they will be bound to keep a regular register of notices on which they must enter the name of the person giving the notice and other particulars of that kind, just as a register is kept under the Land Registration Act. So that there will be a system of informal or unofficial registration of these mortgages of equitable interests. You will find of course, on reading the Act that there are very long sections dealing with these provisions for endorsing notices on the deeds and for appointing a corporation on whom notices may be served. Of course, the corporation need not act unless they consent to do so. They must not also be the trustees of the settlement; they must be independent people.

The practical result of that is—it will not worry you, I think, at all, because there is no need to use these provisions

unless you want to—the trustees will in the ordinary way accept the notices, and it is only if it happens in some few cases that the reception of these notices really becomes oppressive, that the trustees will appoint a corporation. But there is this practical point to be considered. When you are advising a client who is lending money on interests under a settlement you do investigate the title to some extent and you inspect the settlement, but when you are inspecting, it take care to see whether any nomination of a trust corporation has been made and endorsed on the trust instrument. One of the provisions is that, when a trust corporation has been appointed in this way, the appointment must be endorsed on the trust instrument. So you know quite well if you are lending money on an interest under a settlement you are to take care to have a look at the trust instrument to see whether any such nomination has been endorsed upon it. If it has, then, of course, you will give notice to the trust corporation. If, on the other hand, by a mistake or through not noticing the endorsement, you give notice to the trustees in the ordinary way, they will be bound to hand on the notice to the trust corporation, so that in all probability you would not suffer even then.

Now we come to another important matter as affecting priorities, that is the doctrine of tacking. You know the present law about tacking. It is most unsatisfactory and quite illogical. The first mortgagee gets the legal estate and perhaps it is quite right, but if he makes further advances and does that thinking he has got the legal estate by way of securing him as he is the person who has taken the trouble to get properly secured by getting the legal estate, it is quite right that his further advances should be equally well secured, provided he has not heard in the interval of any other subsequent mortgages. But the present rule of tacking, of course, goes much further than that, and there may be several subsequent mortgagees, all of whom are equally innocent, all of whom have advanced money to a fraudulent mortgagor who has suppressed the others and told each one that he is the second mortgagee, and then, after he has absconded or gone bankrupt, if someone can get hold of the legal estate from the first mortgagee he gets priority—which is quite illogical and adds to the risk. Attempts have been made to abolish the rule as to tacking as being illogical and unfair, but the great stumbling block has always been this, that mortgagees like to know that any further advances they make will be protected. The result is that in these consolidation statutes the matter has been fully worked out and the priority which a mortgagee gets in respect of his further advances has been well protected. But tacking by any other persons—that is to say, third persons who happen to get hold of the first mortgage—is done away with. It only applies in future to further advances made by a prior mortgagee.

Of course, when you are considering the question of protecting further advances, one most important class of mortgage for further advances is the ordinary banker's mortgagor charge to secure a current account. That really is a mortgage to secure a present amount due and further advances sometimes of varying amount, and they are protected in the same kind of way. Now the section which deals with that is a little complicated, but the classes of persons who can be protected may be divided into three heads. The third party, who is not a mortgagee to start with, is not protected at all first where the mortgage imposes an obligation to make further advances—that is to say, where the mortgagee lends so much and undertakes to lend a certain further sum when called upon. In that case the first mortgagee or prior mortgagee can tack on these further advances and get full priority for them, even if he has notice of subsequent mortgages. That is quite fair, because he has bound himself to lend up to a figure. Anybody who is advancing money by way of second mortgage can see that he has bound himself to advance up to that figure, and he cannot help himself. It is, therefore, right that he should have priority, not only for his original mortgage, but also for his further advances, even if he has had notice of subsequent encumbrances before he makes his further advance. That is the first class of persons.

Secondly, where a mortgage is made expressly for securing a current account or other further advances, there the old rule applies, but he has a further protection in regard to registration. It is this; if the prior mortgagee making this further advance had no notice at the time of his further advance of a subsequent encumbrance, then he can tack his further advance, and, by way of further protection to him, it is enacted that the registration of a subsequent mortgage as a land charge is not to amount to notice to him of that further mortgage unless it was registered at the time he made his original advance, or unless it was registered at the time he made his last inspection. That means this, that when a person is advancing money for the first time, he ought to inspect the register, and he will inspect the register; he sees nothing there; then if he makes a mortgage for securing a sum of money and further advances, he can go on making those further advances if he has not had any notice of a subsequent encumbrance, and he need not on every occasion of the further advance go and inspect the register. Of course, that would be quite impossible in the case of a bank charge for a current account. That is why it is done in that way.

Now, thirdly, if the mortgage is not made expressly for further advances, then the old rule applies and the mortgagee can tack on the further advances and get them protected if he has no notice of any subsequent encumbrances when he makes his further advance. Nothing is said in the section about registration of the subsequent mortgage as a land charge being notice. But you will remember from what I told you the other day that the Law of Property Act itself makes the registration of a land charge actual notice to everybody. So, although it is not put in the section, one has to go on and say this; in the case of that third class of person where the mortgage is not made expressly for further advances, he will not be able to tack a further advance as against a subsequent mortgage which is registered as a land charge, even though he, in fact, has heard nothing about it. So, with regard to making further advances where the mortgage does not provide for them, you should be very careful to inspect the register before you make a further advance. I think that must be the reading of the Act, because, of course, one always has to refer from one section to another to see quite exactly what is meant in the case of any doubt. Section 198, remember, says that registration of a land charge shall be actual notice; but it goes on and says this: "This section operates without prejudice to the provisions of this Act respecting the making of further advances by a mortgagee." Perhaps that is not very clear, but I feel fairly confident that the effect of that is that where a mortgage provides for further advances the mortgagee can disregard any registrations in the sense that he need not look and see if they are registered and will not have notice merely because they are registered. But if it does not provide for further advances, then he will have notice of a subsequent mortgage which is registered as a land charge, though he has in fact never heard of it. Except as to further advances by a prior mortgagee, tacking is abolished. That is to say, a third or fourth mortgagee cannot acquire a right to tack by acquiring the legal estate from the first mortgagee.

Then there is an interesting change made—I think it must be so. It is that this new rule of tacking ceases to be a kind of rule of equity based on the principle that the legal estate shall prevail, and becomes a statutory right to tack, and it applies to every mortgagee, whether legal or equitable. They will, of course, for the most part be legal mortgages, because all mortgages, or very nearly all mortgages, will probably be made by way of a term of years and will be legal mortgages; but the new rule of tacking applies to equitable mortgages as

well as to legal mortgages. Perhaps there, again, it would be possible to raise a doubt or an arguable point because the definition of "mortgagee" does not expressly say that a mortgagee includes an equitable mortgagee, but the definition of "mortgage" includes every kind of charge or lien and clearly includes an equitable mortgage. So, I think, you may take it when the phrase "mortgagee" by itself is used as opposed to "legal mortgagee" that means under the definitions of the Act a legal or an equitable mortgagee. Here, again, according to the general rule I have mentioned, any priorities which have been acquired by tacking before the 1st January next, will not be affected. And, as usual, the priorities in regard to tacking—these new rules—do not apply to registered charges, that is to say, charges where the title is registered under what used to be the Land Transfer Act. That will be the Land Registration Act, and it will depend on the ordinary rules as regards the priority of registered charges on the register.

There is a point to be considered now in the practical question of what one ought to do with regard to these new rules of tacking. If there is any probability when you are drawing a mortgage that the mortgagee will be likely to be making further advances, there seems to be a considerable advantage in putting in a clause stating expressly that this mortgage is to be a mortgage to secure the amount lent and any further advances that may be made. In fact I should not be surprised if that becomes a sort of regular clause to put into mortgages, just like the clause which excludes the present s. 17 of the Conveyancing Act, because it does not do any harm to the mortgagee to say: "This mortgage shall cover any further advances which may be made." It is true that if you have any defined limit for your further advances you may have to put a bigger stamp, but where there is no limit—where it is just a mortgage to secure any further advances which may be made without limit of any kind—then, as I read the Stamp Act, no further stamp duty is put on for the moment. So that it may be that in all cases—but certainly I think where there is any probability of further advances being made, as in the case, for instance, of building society mortgages where I think provision is often made for further advances to a person taking up further shares—it is just as well to put in an express clause that the mortgage is to cover further advances, because that means that a mortgagee will be safe then in making further advances without having to go through and search the register on each occasion. If, however, you find that a mortgage has been made to your client not expressly to cover further advances, and he is advancing further sums, you would advise him to have a search made in the register before he advances anything further.

Then there is another rather interesting change made in relation to mortgages which was necessary to carry out the notion of assimilation. In this change, instead of the rules relating to personal property being followed, the draughtsmen of the Act have chosen to follow the rules relating to land. That is with regard to the principle known under the title of Locke-King's Act. You know the position was this: apart from any statute, under the old law where a person by his will devised property (land or personalty or whatever it is which is in fact subject to a mortgage) then the old rule was that the mortgage was a debt of the testator and was payable out of the residuary personalty first, and the devisee of land which was in fact subject to a mortgage would get that land free from the mortgage. That was thought to be unfair, and not in accordance with the ordinary intention of a testator and so by Locke-King's Act, you remember, the devisee takes the land subject to the burden of the mortgage. That was extended by subsequent statutes to apply to leaseholds and to liens on land; but the old rule still applies to-day with regard to personalty, and as you are assimilating the law with regard to real and personal property, you have to adopt one rule or the other. In this case the Act has adopted the rule of Locke-King's Act. Accordingly after the Act—I suppose this applies to the case of a person dying after the Act—when there is a gift, a devise or bequest of land or personalty which is subject to a charge, the devisee or legatee takes it subject to the charge. It is s. 35 of the Administration of Estates Act, and it says: "Where a person dies possessed of, or by his will disposes of an interest in property"—that is general, not only land—"which at the time of his death is charged with the payment of money (including a lien for unpaid purchase money) unless there is a contrary intention expressed in the will the interest so charged shall be primarily liable for the payment of the charge." That makes an important change. I do not think the question arose very frequently in practice, but I remember a case not so long ago where this happened: a testator gave all his wine and consumable liquors to his wife. The wine is a specific bequest. He was a man who took a great deal of interest in his wine, and he used to buy it in fairly large quantities, so large that his cellar accommodation was not sufficient. He therefore used to make a practice of leaving the wine, or at any rate a large part of it, with the vendor (that is to say, with his wine merchant who supplied him), and he did not always pay for his wine on the spot. There was accordingly from time to time an account against him of money which he owed to the wine merchant. The result was, as you see, that the wine merchant would have a lien on the wine so far as he had retained it—an unpaid vendor's lien. A point arose, among others, on a summons before the court, as to whether the widow took the wine subject to this lien or free from it. There was very little difficulty in showing that the old rule still applies to personalty, that is to say, that where there is a specific bequest of personalty, though it is subject to an existing charge, the legatee takes the specific bequest and the charge has to be paid out of residue. Bear in mind that that has been altered by the new law and altered in not a very prominent way. It is altered merely by a section which re-enacts Locke-King's Act, as it has been extended by subsequent statutes, using the phrase "priority" instead of "land." So it is a thing which one might easily miss unless it was pointed out. No doubt, when the books come out, attention will be called to that. That, I think, completes the assimilation of the various rules relating to the priority of mortgages as between land and personalty.

(Transcript of the Shorthand Notes of The Solicitors' Law Stationery Society, Limited, 104-7, Fetter Lane, E.C.4.)

Books Received.

Civil Judicial Statistics, relating to the Judicial Committee of the Privy Council, the House of Lords, the Supreme Court of Judicature, County Courts, and other Civil Courts, for 1924. Compiled by the County Courts Branch of the Lord Chancellor's Department, H.M. Stationery Office. 1s.

Criminal Appeal Cases. HERMAN COHEN. Vol. 19, Part II. Sweet & Maxwell, Ltd., 2 and 3 Chancery-lane, W.C.2. 7s. 6d.

Mews' Quarterly Digest of English Case Law (October, 1925), by AUBREY J. SPENCER, Barrister-at-Law. This part contains cases reported from 1st January to 1st October, 1925. Stevens & Sons, Ltd., 119 and 120 Chancery-lane, W.C. Sweet & Maxwell, Ltd., 2 and 3 Chancery-lane, W.C.

Mews' Digest of Bankruptcy Cases to the end of 1924 (reprinted from the Second Edition of Mews' Digest of English Case Law). Sweet & Maxwell, Ltd, 2 and 3 Chancery-lane, W.C.2. Stevens & Sons, Ltd, 119 and 120 Chancery-lane, W.C.2. The Solicitors' Law Stationery Society, Ltd., 104/7 Fetter-lane, E.C.4, and branches. £2 2s.

Court of Appeal.

L. S. G. Limited *v.* **T. B. Lawrence Limited.**

12th November.

LANDLORD AND TENANT—SHOPS—RESTRICTIVE COVENANT—LETTING OF SHOPS—COVENANT AGAINST LETTING SHOPS FOR SALE OF SOUVENIRS—BREACH OF COVENANT—REMEDY.

The defendants let to the plaintiffs certain shops at Wembley. The defendants wrote letters to the plaintiffs in which they (the defendants) expressly undertook not to let any of the adjoining shops for the sale of souvenirs. The defendants afterwards let one of the adjoining shops to a firm of toy dealers for the sale of "toys and goods" usually sold by them in their various shops. They also let another for the sale of "tobacco, cigars, cigarettes, pipes, pouches, cigarette cases, and general fancy goods," and others to an outfitter and embroiderer for the sale of neckties and handkerchiefs. In an action for breach of covenant, the plaintiff complained that articles properly described as souvenirs were sold in the adjoining shops.

Held, that there was no breach of the undertaking merely because one shop had been let to a tobacconist and another to an embroiderer. If a shop had been let for a purpose which would not ordinarily include the sale of souvenirs it would not be within the scope of the undertaking. In this case the shops were not let for a purpose which would ordinarily include the sale of souvenirs.

Decision of Shearman, J., 41 T.L.R. 612, *reversed.*

Appeal from Shearman, J. The defendants let to the plaintiffs a number of shops on Old London Bridge at Wembley at a total rental of £1,800 and a shop on the Colonnade at a percentage of the gross takings. The defendants expressly agreed not to let any of the adjoining shops for the sale of souvenirs. On 20th January, 1925, the defendants wrote to the plaintiffs as follows: "We will not let any of the following shops on Old London Bridge, Wembley, for the sale of souvenirs" (then followed the numbers of the houses), "these being shops on either side of those taken by you." Then as regards The Colonnade, the defendants wrote: "We agree that there shall be no other souvenir shop, apart from your own, No. 46, between Nos. 42 and 50." The plaintiffs were authorised to sell the following goods in their shops: jewellery, leather goods, glass, silver, plate, general fancy goods and souvenirs. The defendants let two of the shops in the prohibited area on Old London Bridge to a firm who applied for the sale of "toys and goods" usually sold by them in their various shops. They also let another shop on Old London Bridge and a shop adjoining the plaintiffs' shop on The Colonnade to another firm for the sale of "tobacco, cigars, cigarettes, pipes, pouches, cigarette cases and general fancy goods." The plaintiffs complained that articles properly described as souvenirs were being sold in these shops and in other shops within the prohibited area let to a perfumer, an embroiderer, and to a tailor and haberdasher. It was alleged that souvenirs in the form of handkerchiefs and neckties were being sold in breach of the undertaking. Shearman, J., held that "souvenir" meant something which could reasonably be regarded by the purchaser owing to its form as reminding him of the place where it was bought and that the authority given by the defendants to the tenants of the adjoining shops was sufficiently wide in some of the cases alleged to cover the sale of souvenirs, and there had been some breaches of the undertaking on the part of the defendants. He gave judgment for the plaintiffs for damages to be assessed. The defendants appealed.

The court (BANKES, SCRUTTON and ATKIN, L.JJ.) allowed the appeal, holding that as to part of the undertaking it was not effective, but in so far as it could be treated as an effective undertaking not to let any of the adjoining shops for the sale of souvenirs, the conduct of the defendants must be considered as well as the purpose for which they let the shops. As the shops in question were all let by the defendants for purposes which would not ordinarily include the sale of souvenirs, there had not been any breach of the undertaking and the plaintiffs' claim failed. Appeal allowed.

COUNSEL: *Sir Walter Schwabe*, K.C., and *J. P. Newman*; *Norman Birkett*, K.C., and *Elkin*.

SOLICITORS: *W. J. A. Drake*; *De Meza & Menasse*.

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re **Deloitte: Griffiths** *v.* **Gosling.**

Tomlin, J. 27th October.

WILL—ACCUMULATIONS—DIRECTIONS EXCEEDING PERIOD ALLOWED BY THELLUSSON ACT—GIFT OF ACCUMULATIONS TO CHILDREN OF AN ANNUITANT—ANNUITANT PAST CHILD-BEARING—CLOSING OF CLASS—NO LEGAL PRESUMPTION—NO RIGHT IN COURT TO STOP THE ACCUMULATIONS AT INSTANCE OF ALL THE CHILDREN.

In determining rights in law the court is not entitled to enquire into the capacity of any person to bear children, and accordingly a class of children cannot be treated for the purpose of dealing with an estate as incapable of increase on the footing that their mother is past child-bearing.

Originating summons. This was an originating summons asking, *inter alia*, (1) if an annuity was payable out of current annual income only or also out of accumulations of income; (2) if the children of the annuitant were entitled to receive the accumulations of income; (3) whether the children could stop any further accumulations and have the surplus income paid to them; and (4) who would be entitled to the surplus income after the period of twenty-one years had expired. The facts were as follows: By her will dated 6th July, 1901, the testatrix devised and bequeathed her residuary real and personal estate upon trust for sale and conversion and subject to payment of her funeral and testamentary expenses, debts and legacies for investment as therein mentioned, and to hold £25,000 of the investments upon trust to pay the annual sum of £500 to her niece, Mrs. Gosling, during her life, and, if her husband, Charles Gosling, should survive her, upon trust if the trustees should think fit, but not otherwise, to pay to him during his life £150 per annum. The testatrix died on the 9th of January, 1904. She further directed by her will that her trustees should accumulate the residue of the income of the £25,000 at compound interest, and that the accumulations should follow the dispositions thereafter made of the capital sum of £25,000. The capital sum and the accumulations were then given after Mrs. Gosling's death "In trust for all the children or any the child of my said niece who shall whether having at my death or have afterwards attained the age of twenty-one years." Mrs. Gosling was born in 1860. She had been once married, and her husband, Charles Gosling, was still alive. She had had six children, all of whom had long since attained the age of twenty-one years. The fund had been set aside and invested and considerable sums of surplus income had been accumulated. The period of twenty-one years from the death of the testatrix expired on 9th January, 1925.

TOMLIN, J., after stating the facts, said: "In my judgment neither Mrs. Gosling nor her husband has any interest in the accumulations, as they cannot be resorted to for payment of any arrears of any annuity. There is in this will a direction for accumulations extending beyond the permitted period under the Thellusson Act. Unless, therefore, the accumulations can be stopped the surplus income as from the end of the period of twenty-one years from the testatrix's death falls into residue. It is said on behalf of the six children of Mrs. Gosling that their mother, having become past child-bearing, they are in a position to stop the accumulations in which no one but themselves can have any interest. I do not think I am entitled

in determining rights in law to enquire into the capacity of any person to bear children. This class of children cannot therefore be treated as incapable of increase. The surplus income as from the end of the period of twenty-one years therefore falls into residue."

COUNSEL: *L. W. Byrne, F. Whinney, Gavin Simonds*, K.C., and *Swords*; *L. F. Potts, Alan Ellis, Spens*, K.C., and *Danckwerts*.

SOLICITORS: *Wansey, Stammers & Co.*: *Rooper & Whately*; *Coward, Chance & Co.*

[Reported by L. MORGAN MAY, Esq., Barrister-at-Law.]

High Court—King's Bench Division

Jenkins & Co. *v.* B. Simon.

Salter and Fraser, JJ. 16th October.

COSTS—REMISSION OF ACTION TO COUNTY COURT—COSTS OF PROCEEDINGS IN HIGH COURT—JURISDICTION OF COUNTY COURT JUDGE—JUDICIAL EXERCISE OF DISCRETION—COUNTY COURTS ACT, 1888 (51 & 52 Vic., c. 43), s. 113—COUNTY COURTS ACT, 1919, 9 & 10 Geo. V, c. 73, ss. 1, 11, 12, and the provisos to ss. 11 and 12.

Where an action is started in the High Court under Ord. XIV, and an order is made within twenty-one days of the issue of the writ that the sum admitted to be due by the defendant be paid within a certain time, and the claim for the balance is transferred to a county court, the costs of the whole action, both before and after transfer, are in the discretion of the county court judge, and such discretion must be exercised judicially.

Appeal from the Yorkshire County Court. The plaintiffs, in December, 1924, brought an action against the defendant in the High Court under Ord. XIV for £23 18s. 11d. for work done and materials supplied. The defendant admitted liability as to £21 of the amount claimed. Within twenty-one days of the issue of the writ the registrar of the Leeds District Registry made an order whereby the plaintiffs were to be at liberty to sign judgment for £21 if it was not paid within seven days, and he gave the defendant leave to defend as to the balance of the claim, and remitted the action to the Yorkshire County Court. The £21 was paid within the time allowed. On 3rd February, three days before the date fixed for the hearing of the remitted action, the defendant paid the balance of the plaintiffs' claim, namely, £2 18s. 11d. The county court judge had only to decide the scale on which the plaintiffs' costs should be taxed. The judge, in the exercise of his discretion, held that the whole action should have been brought in the county court, and no good reason for bringing it in the High Court was shown, and he only allowed the plaintiffs the taxed costs of the whole action on the county court scale. The plaintiffs appealed.

SALTER, J.: Two points arose for decision: (1) Had the county court judge jurisdiction to order the costs of the proceedings in the High Court to be taxed on the county court scale? (2) If he had, had he exercised his discretion judicially? The answer to the first question depended on the construction of s. 113 of the County Courts Act, 1888, and ss. 1, 11 and 12 of the County Courts Act, 1919. It had been argued that the word "allowing" in the second proviso to s. 12 was limited to increasing the normal scale of costs and did not cover disallowance, total or partial. That was too narrow a reading, and the word "allow" was equivalent to "award." Sections 11 and 12, when read together, showed the intention of the Legislature to be that, in the case of actions remitted to a county court, the whole discretion over all costs of the action should, subject to any order of the transferring court, be left to the county court judge. The judge, therefore, had jurisdiction over the whole costs, and the remaining question was whether he had exercised his discretion judicially. The plaintiffs had been completely successful and had recovered every penny of their claim. There was no discretion to deprive them of costs unless for some misconduct. To say they were guilty of misconduct because they did a thing which, *prima facie*, entitled them to High Court costs, and for no other reason, was to nullify the second proviso to s. 11. The reason given by the county court judge was not a judicial exercise of his discretion. The appeal would be allowed, and the costs before transfer would be taxed on the High Court scale, and after transfer on the county court scale.

FRASER, J., concurred. Appeal allowed.

COUNSEL: *R. J. Sutcliffe*, for the plaintiffs; *H. I. P. Hallett*, for the defendant.

SOLICITORS: *Church, Adams, Tatham & Co.*, for *J. H. Milner and Son*, Leeds, for the plaintiffs; *Rawle, Johnstone & Co.*, for *Godlove*, Leeds, for the defendant.

[Reported by COLIN CLAYTON, Esq., Barrister-at-Law.]

Law Students' Journal.

The Law Society.

FINAL EXAMINATION.

The following Candidates (whose names are in alphabetical order) were successful at the Final Examination held on 2nd and 3rd November, 1925:—

Addis, George Ryland; Addison, John Henry Squire, B.A., LL.B. Cantab.; Allée, Aubrey Rowland, B.A., B.Com. Birmingham; Allen, Charles Dudley; Allen, Percival Robert; Ashman, Edward John; Atkinson, John; Baines, William Henry; Bann, Harry; Barham, Milton Joseph; Barnes, Archibald Baden; Barnes, John Blissard; Barnett, Geoffrey Morris; Beaumont, Alfred Easthope; Bellis, William Harold, LL.B. Manchester; Bentley, Reginald Louis Richard; Bingham, Maurice William; Bishop, John Gilbert; Bishop, Richmond Collis; Braid, Alexander Ian; Breakell, Sidney Clayton; Broadley, Kenneth; Buchanan, Robert Donald, B.A. Cantab.; Burder, Edward Russell, B.A. Oxon.; Burnard, Hugh Norman; Burrell, Eric, LL.B. London; Cannon, Kingsley Perks; Cartwright, Geoffrey, B.A. Oxon.; Casserley, Harold Francis; Christian-Edwards, James Colin, LL.B. London; Clark, Harold Dixon; Cohen, Jacques, B.A. London; Cohen, Janus, B.A. London; Coleman Samuel; Coles, Harry Albert Thomas; Cooper, George; Cope, Edward John; Crane, Samuel; Cudbird, Horace Richard; Davey, Reginald John; Davies, Robert Griffith; Dennis, Lawrence Bertie; Douglas, Bernard Thomas; Duffell, Norman Haynes; Dunn, Ellis; Eaton, Richard Noel; Edwards, John Bowen; Elliott, John; Evans, David Howell; Farrer, Hugh Frederick Francis; Farrer, Walter Leslie, B.A. Oxon.; Fenwick, Frank Cairns Arkless, B.A. Oxon.; Finn, Richard Austen, B.A. Oxon.; Flintoff, Robert William, LL.B. Cantab.; Ford, Mortimer Noel; Furlong, Edward Thomas; Galbraith, Hugh; Gardiner, Cyril Owen; Gerrey, Frederick James; Gethin, John Henry Frank; Gibbons, Stanley Alexander, B.A. Cantab.; Greene, Gerald Leslie; Greenwood, George Bernard; Greville-Smith, Stanley Howard, B.A. Cantab.; Grimes, Murcott Ledbrooke; Hall, Godwin Venimore; Hamblen, Sidney George Reeves; Harris, George Harry; Haydon, John Trevor, B.A. Oxon.; Hemming, George Nathaniel William; Heard, George William; Henderson, Ernest Alfred; Herington, Sydney Davis, B.A. Oxon.; Hill, James William Francis, M.A., LL.B. Cantab.; Hinchcliffe, George Nicholson; Hiscott, Ralph Lionel Henry; Hobday, Sylvia Irene; Holcroft, Frederick Howard Thomas; Hope, Mary Dorothea; Hughes, Robert; Hyman, Marcus; James, Arthur Thomas; Jarvis, Thomas Edward Allan; Jeffery, Cecil Howard; Jerman, Reginald Herbert, M.A. Oxon.; Jones, Cecil Wilfrid George; Jones, Oswald Walker; Jones, William Aneurin Owen; King, Stephen Frank, M.A. Oxon.; Kirkland, John; Knight, Sydney Hallewell; Lambert, John Hubert; Levy, Israel Harris, B.A. London; Lewis, Kenneth; Lipton, Harry; Loft, Arthur William Harneis, B.A. Oxon.; Long, William George, M.A., LL.B. Cantab.; Longbottom, Harry Fearnley; Longfield, Maurice Hindle; Lowe, Herbert; Lynch, Stephen Ratcliff; McIlwraith, Ian Douglas; Masson, John McIntyre; Meates, Ronald Henry Crossley; Miller, George Eric; Moon, Richard Lovering; Moseley, Thomas Oswald; Musker, Ronald; Nesbitt, Robert Malleson, B.A. Oxon.; Newborn, George Rupert; Nixon, Stanley; North, Eric Harrison, M.A. Oxon.; Norton, Evan Augustus, B.A. Oxon.; Oglethorpe, Geoffrey; Ormond, Herbert Edward, B.A. Oxon.; Owen, Arthur Vernon, B.A., LL.B. Cantab.;

Owen, Thomas Joseph; Page, Archibald Henry, LL.B. London; Page, Noël; Page, William James; Pain, Reginald Ernest; Parmenter, Fred; Payne, Harry; Pearcy, Alfred Brooksbank; Perkins, William Robert; Perry, Richard Godfrey; Petersen, Gwendolen Ottilia Delphin, B.A. Oxon.; Pick, Maurice Edward; Platt, Eric Peregrine; Pollard, Arthur Herbert; Poole, Charles Lewin; Poole, John; Prior, Charles Morris Wandesforde; Raley, Sidney Charles; Rawlence, Alma du Hamel; Rea, Frederick Cyril; Reed, Edward Ingram; Richards, William Morley; Richmond, Anthony Walter; Rigden, Kenneth George; Ripley, Robert William, B.A., LL.B. Cantab.; Roberts, George Harold; Robson, Hubert Peter; Rodyk, Alexander Humphrey Bernard, B.A., LL.B. Cantab.; Roe, Bertram Charles; Rudram, Ernest Schiller; Russ, Aubrey Gonvi O'Hara, B.A. Oxon.; Russell, Frank; Russell, James Godfrey Nicholls; Schulman, Frank Augustus, B.A., LL.B. Cantab.; Sheehan, Maurice; Side, Robert Erle, LL.B. London; Skan, Harold Ernest; Slade, Leslie John; Slater, Arthur Deakin; Sleigh, Charles Hope, B.A. Oxon.; Smith, Anthony Leslie; Smith, Cicely Plumbe; Smith, Francis Highmoor Carr, B.A. Oxon.; Smith, John Harper, LL.B. London; Snell, Arthur Lawrence; Staton, Frederic Hamilton Payling; Swatton, William Thomas; Swift, Geoffrey Herbert, B.A. Cantab.; Swift, James Gutch; Tansley, Kenneth Ewart; Taylor, Gordon Harold, B.A., LL.B. Cantab.; Tench, Lilian Juanita, B.Sc. London; Thatcher, Allan Frank Beauchamp; Thompson, Charles Cuthbert; Thompson, Robert Lord; Toyne, Wystan Butler; Turner, Geoffrey Wreford; Turner, George Alexander; Turner, Richard Walter, B.A., LL.B. Cantab.; Twyford, Robert Hamilton; Veale, Frederick John Partington; Veale, Leighton Keslake; Walker, Fred; Wallace, Joseph William; Walton, Annie Sheldon; Waring, John Joseph; Watkins-Evans, Ieuan, M.A., LL.B. Cantab.; Watson, Edmund; Watson, Thomas; Way, Thomas Vernon; Wheatcroft, John Bramwell; White, Percival Edward, LL.B. London; Whitehead, John Townsend; Whiteman, John William Inge, B.A. Oxon.; Willan, John Johnson; Williams, Cecil Gwynn Ransome; Williams, Edward Glyn; Wilson, Stuart Henry Moreau, B.A. Oxon.; Wilson, Thomas Matthew; Winter, William, LL.M. Sheffield; Woods, Arthur Harold, B.A. Cantab.; Woodthorpe, John Frederick; Woolnough, Kenneth Vernon, B.A. Oxon.; Worley, Robert Braddock.

No. of Candidates, 235. Passed, 200.

The Council of The Law Society have awarded the John Mackrell Prize, value about £13, to Alma du Hamel Rawlence, who served his Articles of Clerkship with Mr. Thomas Richard Edridge, of the firms of Messrs. Edridge, Sons & Marten; and Drummonds, both of London and Croydon.

INTERMEDIATE EXAMINATION.

The following Candidates (whose names are in alphabetical order) were successful at the Intermediate Examination held on the 4th and 5th November, 1925.

A Candidate is not obliged to take both parts of the Examination at the same time.

First Class.

Sale, Ronald Davidson Reed; Trimming, Alan Roy; Welchman, Clifford Charles.

Passed.

Abel, Harold Edmund; Arbeid, Solomon; Baldwin, Harold; Beall, John Samuel; Black, Gonville Kirwan; Blake, John Clifford; Bowman, Thomas William; Bradley, George; Brown, Frederick Alexander; Burton, Keith Eversleigh; Campbell, Stephen Duncan Francis; Chapple, Charles Frederick Stevens; Conyer, Thomas George; Corney, Wilfred Edward, B.A., Wales; Craig, Hamish McCulloch; Davies, Herbert; Day, Geoffrey Maxwell; Dungey, Leslie William Ernest; Edwards, Thomas Victor; Elles, William Kidston; Emmerson, Wallace Edgar; Galbraith, Andrew; Giltrow, Herbert George; Gittins, John Charles; Goodenday, Philip; Green, Joseph Rann; Hadfield, James Ernest; Hall, Donald John, B.A. Cantab.; Hargrove, Frank Harold, B.A. Cantab.; Healey, Clive Edridge, B.A. Oxon.; Humphreys, John Pitcairn; Hurford, Hubert John; Jones, Reuben Dexter; Jones, William Elwyn Edwards, B.A. Wales; Littledale, Joseph Gregory; Littlewood, Francis Desmond; Martin, Eric Thomas Elliott; Milnes, Kenneth John; Morris, George; Morton, Hugh Burgess; Myers, Harry; Newey, George Frederick Arthur; Newnes, Maurice; Norris, Donald Lapage; Oppenheim, Duncan Morris; Pedder, Thomas; Philips, Albert Lewis; Prickett, Thomas Alfred; Robinson, Charles William; Sherwood, Robert Tracy; Sinclair, George; Soloman, Albert Edward; Stonehouse, Eric Wilson; Trangmar, Herbert Leicester; Trounson, Edward Morkam, B.A. Cantab.; Turner, Philip John; Waldron, Rowland Everitt; Williams, John Prys; Willis, John Brooke; Wilson, James Ernest; Yates, Francis Weddell, B.A. Oxon.

The following Candidates have passed the legal portion only:—

Atherton, Charles Edward; Atherton, John Winn; Banbridge, Raymond George Harding; Barnett, Leonard Levy; Berry, Thomas Geoffrey Seager, B.A. Cantab.; Berthon, Harold Peter Willoughby; Bishop, William Herbert; Blackhurst, Alfred Bernard; Boulton, Douglas Arthur; Brabner, Denis Harold; Broughton, Arthur Stavesby; Carter, John Compton; Coote, Sidney; Cotterill, John Douglas; Coupe, Donald; Crust, Robert Basil; Daplyn, Wilfrid Edgar; Davies, Clifford Gwynne; Davies, David Emlyn; Davies, William Wynn; Dawson, Reginald Lloyd; des Forges, Walter Stretton; Dingle, Arthur Henry; Duggan, Clements; Duval, Edward Walter; Easton, Jack Maynard Cholmondeley; Emanuel, Philip; Farren, Horace Frederick; Francis, John Earley, B.A. Oxon.; Furniss, William Dunn; Gillings, Harry; Godson, Humphrey Joseph; Green, James Dudley Beamish; Greenland, John Edward; Griffiths, Charles Douglas; Grimsdale, Frederick James; Guedalla, Francis Basil; Hampshire, Frederick Charles; Hanson, David Luke Vernon; Harper, Ian Rennie; Harris, Arthur Roy; Hart, Kathleen; Harvey, Ernest Philip; Hazell, Henry Norman McClune; Hellings, Frank; Heywood, Frank Beattie; Heyworth, Clifford; Holt, James Garfield, B.A. Cantab.; Hopkins, William Glyndwr; Howman, Donald George Cox; Huggett, Frederick George; Humphreys, Sydney George Gordon; Hunter, Harry Leonard; Hutchen, William Warden; Jones, Richard Frederick; Jourdain, John Reginald; Kitchin, John Clark; Lee, Walter; Liquorish, Harold Arthur; MacAndrew, Helen Stephanie; Mason, Thomas Anthony; Mickler, Samuel; Mould, Graham Theodore Walter; Mylchreest, Thomas Evan Naylor, B.A. Oxon.; Nicholson, John Robinson; O'Connor, Thomas Henry; Owen, Oswald Kurtz; Pearce, Herbert Stanley; Pearce, Mark Guy; Penhale, Theodore Howard Carter; Piper, John Egerton Christmas; Reeves, Frank George; Robinson, William Arthur; Rowe, Herbert Edward; Russell, Robert Ernest Gordon; Sanderson, Robert Tunstall; Shackles, Donald Patrick; Smith, Frederick Thomas; Smith, John Hare; Sorrell, Frank Joseph; Stephenson, Bernard Morrell; Strike, William Charles; Taylor, Joseph Lightfoot; Thomas, Roger Edward Laugharne; Thomson, Christopher Gardner; Thorburn, Philip; Thornton, Ernest Reginald; Vallance, James Newton; Waller, Frederick Arnold; Walrond, Henry Humphrey Richard Methwold; Walsh, Francis James Andrew; Ward, Oliver James; Watkins, William Irving; Watson, Richard Goodman; Wild, Robert Douglas Percy; Williamson, Charles Derek, B.A. Oxon.; Willson, Douglas James; Wood, Frank Noel; Wormwald, John; Wyeth, Arthur Ernest.

No. of Candidates, 251. Passed, 164.

The following Candidates have passed the trust accounts and book-keeping portion only:—

Appelbe, Ambrose Erle Fuller, B.A., LL.B. Cantab.; Appleby, Dudley Fitz-Mowbray, B.A. Oxon.; Arksey, Cyril Rawlin; Armstrong, John Noel, B.A., LL.B. Cantab.; Atkin, Ronald William Mein, B.A. Oxon.; Bailey, Harry Winston; Bannister, Reginald Payne; Barber, Geoffrey MacKenzie Ellison; Barlow, John Sidney, B.A., LL.B. Cantab.; Barradale, John Alfred Crease, B.A., LL.B. Cantab.; Barratt, Thomas Ernest Chester, B.A., LL.B. Cantab.; Battersby, Leslie Norfolk, B.A., LL.B. Cantab.; Belk, Humphrey Cochrane, B.A., LL.B. Cantab.; Bell, Reginald William; Berryman, Frederic Donald; Bird, Jeannie Bryan MacDonald Babington, B.A., LL.B. Cantab.; Brisley, Frank De Bock; Brunskill, Frederick Joshua; Byrne, Patrick Cornelius; Buckle, Ralph Raby; Clapp, Ray Mainwaring, B.A. Oxon.; Clark, Alan Copley; Clarke, Richard James; Clarkson, Albert John; Caly, Henry Whyman Fisher; Conway, Farra Robin Aikman Wiseman, B.A. Oxon.; Cooke, William Ivor Bishop; Curtis, D'Arcy Stewart, B.A. Cantab.; Darlow, George Francis, B.A., LL.B. Cantab.; Davies, John William; Dawes, Francis Eric, B.A., LL.B. Cantab.; Drew, Joseph Arthur Ivor; Dutton, William Parker, B.A., LL.B. Cantab.; Eichholz, Robert Nathaniel; Evans, Donald Brittan; Fillmore, Howard Charles Fred Millard; Fowler, Sydney Straton Brocklebank, B.A., LL.B. Cantab.; Freedman, Joseph Leopold, B.A., LL.B. Cantab.; Frost, Thomas Joseph Cuthbert; Gascoin, Percy Alden, LL.B. London; Gibson, Ernest William, B.A. Cantab.; Gillis, Leopold Henry; Gould, Guy Harford; Green, Mark Levy; Greenwood, Frederick Arthur; Haines, Edward; Hall, David Norman; Harrison, Jack Frederick Wynn; Hart, William Godfrey Scott; Holden, Trevor; Horne, Ronald Henry Gregory; Howie, Robert Coulson; Hurst, Thomas Lyon; Hutchings, Geoffrey Balfour; Hutchinson, Charles Barstow, B.A. Oxon.; Jackson, Maurice

William; James, David Rees; Jefferies, Frederick William; Johnson, Arthur Silverwood; Jones, Allan Bernard; Jones, Frederick William; Jones, Thomas Benjamin; Jordan, Henry Newell; Kenwright, Harold; Kimber, George William Britton; Kwok, Peter Hingkai; Lewis, Morgan; Liddle, Thomas Umpleby; Liversedge, William Ewart; Longden, Gilbert James Morley, B.A., LL.B. Cantab.; Luck, William Henry Francis; McKay, Douglas Logie; Macpherson, Walter Dugald, B.A., LL.B. Cantab.; Mainwaring, Robert David; Marcus, Richard Herbert; Mason, Harold Gluyas; Messenger, John Leslie, B.A. Oxon; Mott, Eric Alston, B.A. Oxon.; Mountain, Francis Joseph Reginald; Mulcahy, Laurence; Neesam, Clarence John; Neve, John Cecil, B.A. Oxon.; Nolan, John Patrick; Odhams, Vernon Charles; Palmer, Bernard Octavius Drew; Park, Godfrey William Alan; Patterson, Charles Richard, B.A. Oxon.; Pennington, Richard Stanley; Perriman, Malcolm Warner; Powell, Jack Alan Howard, LL.B. Wales; Prentice, Alice Madge Irene, B.A., LL.B. Cantab.; Pridham, Arthur Wellesley; Prothero, Arthur Caradoc; Rhodes, John Sydney, B.A., LL.B. Manchester; Richardson, John Harry; Riordan, John Francis; Roberts, Humphrey Davies, B.Sc., LL.B. Wales; Robinson, Robert Eric; Skinner, Douglas William Low; Somerville, Eric Stafford; Stead, Henry; Taylor, Geoffrey Lewis, B.A. Oxon.; Taylor, John Albert Calthrop, B.A., LL.B. Cantab.; Thomas, Samuel Dunstan; Thomas, Trevor; Thompson, Theodore Leslie; Thurlow, Richard Francis Gardom; Tompkins, James Geoffrey Sanxter, B.A. Oxon.; Trotman, Fiennes; Twyford, George Henry; Underwood, Leonard Wrangel, B.A. Cantab.; Veitch, William Archibald Frank; Ward, Charles Richard; Warner, David Basil Harman, B.A. Oxon.; Wetton, Eric Davan, B.A. Oxon.; Whiteway-Wilkinson, William John Bickford; Wilks, Henry William; Williams, Geraint Lloyd, B.A., LL.B. Wales; Willoughby, Cecil George, B.A. Oxon.; Wise, William Edward; Wolff, Myer; Ziegler, Reginald Charles, B.A., LL.B. Cantab.

No. of Candidates, 232. Passed, 186.

Legal News.

Appointments.

[Notices intended for insertion in the current issue should reach us on Wednesday morning.]

Mr. C. T. CHEVALIER, of the Shire Hall, Nottingham, has been appointed Assistant Solicitor in the office of Mr. Cecil Oakes, the Clerk to the East Suffolk County Council.

Mr. JOHN POOLE, Assistant Solicitor in the office of Mr. E. B. Sharpley, Town Clerk, Stoke-on-Trent, has been appointed to a similar position in the office of Mr. Henry Hopkins, Town Clerk, Darlington. Mr. Poole was admitted in 1925.

Mr. ALEXR. PICKARD, Assistant Solicitor in the office of Mr. Norman L. Fleming, Town Clerk, Bradford, has been appointed to a similar position in the office of Mr. Edgar Laverack, Town Clerk, Hull. Mr. Pickard was admitted in 1924.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
M'nd'y Nov. 30	Mr. Jolly	Mr. Bloxam	Mr. Synge	Mr. Ritchie
Tu'sd'y Dec. 1	More	Hicks Beach	Ritchie	Synge
Wednesday . 2	Synge	Jolly	Synge	Ritchie
Thursday . 3	Ritchie	More	Ritchie	Synge
Friday 4	Bloxam	Synge	Synge	Ritchie
Saturday .. 5	Hicks Beach	Ritchie	Ritchie	Synge
	Mr. Justice Astbury.	Mr. Justice Lawrence.	Mr. Justice Russell.	Mr. Justice Tomlin
M'nd'y Nov. 30	Mr. More	Mr. Jolly	Mr. Bloxam	Mr. Hicks Beach
Tu'sd'y Dec. 1	Jolly	More	Hicks Beach	Bloxam
Wednesday 2	More	Jolly	Bloxam	Hicks Beach
Thursday . 3	Jolly	More	Hicks Beach	Bloxam
Friday 4	More	Jolly	Bloxam	Hicks Beach
Saturday .. 5	Jolly	More	Hicks Beach	Bloxam

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4%. Next London Stock Exchange Settlement.
Thursday, 3rd December, 1925.

	Middle Price. 25th Nov.	Interest Yield.	Yield with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 2½%	55⅝	4 10 0	—
War Loan 5% 1929-47	100 5/16	4 19 6	4 19 6
War Loan 4½% 1925-45	94⅞	4 15 0	4 18 0
War Loan 4% (Tax free) 1929-42 ..	100½	4 0 0	4 0 0
War Loan 3½% 1st March 1928 ..	97⅛	3 12 6	4 17 6
Funding 4% Loan 1960-90	86½	4 12 6	4 12 6
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years ..	92⅞	4 6 0	4 8 0
Conversion 4½% Loan 1940-44 ..	97 5/16	4 12 6	4 16 6
Conversion 3½% Loan 1961	75 1/16	4 13 0	—
Local Loan 3% Stock 1921 or after ..	64⅛	4 13 0	—
Bank Stock	251	4 15 6	—
India 4½% 1950-55	88½	5 2 0	5 4 0
India 3½%	67¼	5 3 6	—
India 3%	58½	5 3 0	—
Sudan 4½% 1939-73	95½	4 14 0	4 17 0
Sudan 4% 1974	86½	4 12 6	4 17 0
Transvaal Government 3% Guaranteed 1923-53 (Estimated life 19 years) ..	80½	3 15 0	4 10 6
Colonial Securities.			
Canada 3% 1938	83½	3 13 0	4 16 0
Cape of Good Hope 4% 1916-36 ..	91¼	4 7 6	4 19 6
Cape of Good Hope 3½% 1929-49 ..	80½	4 7 0	4 19 6
Commonwealth of Australia 4½% 1940-60	98½	4 16 0	4 18 0
Jamaica 4½% 1941-71	93½	4 16 6	4 17 0
Natal 4% 1937	91¼	4 7 0	4 19 0
New South Wales 4½% 1935-45 ..	93	4 16 6	5 1 6
New South Wales 4% 1942-62	83¼	4 15 6	5 0 0
New Zealand 4½% 1935-45	95½	4 14 0	4 19 0
New Zealand 4% 1929	95¼	4 3 6	5 1 0
Queensland 3½% 1945	78	4 10 0	5 7 6
South Africa 4% 1943-63	87	4 12 0	4 15 0
S. Australia 3½% 1926-36	86½	4 1 6	5 6 0
Tasmania 3½% 1920-40	83½	4 3 6	5 1 6
Victoria 4% 1940-60	83¼	4 15 6	4 19 0
W. Australia 4½% 1935-65	93½	4 16 6	4 18 6
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corpn.	64	4 13 6	—
Bristol 3½% 1925-65	76½	4 12 0	5 0 0
Cardiff 3½% 1935	88½	3 19 6	5 0 6
Croydon 3% 1940-60	68	4 8 0	5 1 6
Glasgow 2½% 1925-40	76½	3 5 0	4 11 0
Hull 3½% 1925-55	77½	4 10 0	4 19 0
Liverpool 3½% on or after 1942 at option of Corpn.	75½	4 13 0	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	52⅞	4 15 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	63	4 15 0	—
Manchester 3% on or after 1941 ..	64	4 13 6	—
Metropolitan Water Board 3% 'A' 1963-2003	64½	4 13 0	4 14 0
Metropolitan Water Board 3% 'B' 1934-2003	64½	4 12 6	4 14 0
Middlesex C.C. 3½% 1927-47	81¼	4 6 0	4 19 6
Newcastle 3½% irredeemable	74½	4 14 0	—
Nottingham 3% irredeemable	63	4 15 0	—
Plymouth 3% 1920-60	68½	4 8 0	4 19 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture ..	81½	4 18 6	—
Gt. Western Rly. 5% Rent Charge ..	99½	5 1 0	—
Gt. Western Rly. 5% Preference ..	93½	5 7 0	—
L. North Eastern Rly. 4% Debenture ..	78½	5 2 0	—
L. North Eastern Rly. 4% Guaranteed	75½	5 6 0	—
L. North Eastern Rly. 4% 1st Preference	69	5 16 0	—
L. Mid. & Scot. Rly. 4% Debenture ..	80	5 0 0	—
L. Mid. & Scot. Rly. 4% Guaranteed ..	78½	5 1 6	—
L. Mid. & Scot. Rly. 4% Preference ..	73½	5 9 0	—
Southern Railway 4% Debenture ..	79¼	5 0 0	—
Southern Railway 5% Guaranteed ..	98	5 2 0	—
Southern Railway 5% Preference ..	91½	5 9 0	—